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LEGALIZED GAMBLING:
AN OVERVIEW

1984-13

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FOREWORD

Legalized gambling is a very broad topic. Therefore, this study is limited to forms which are most relevant to Canada: casinos, lotteries, off-track and inter-track betting, and slot machines. Bingo is not included because it is nearly uniform in regulation from place to place.

This document presents descriptions and analyses of legalized gambling operations and legislation in countries which have social systems similar to Canada. The primary focus is on the United States and England, with lesser emphasis on the Bahamas, Australia, New Zealand, France, Monaco and Switzerland.

EXECUTIVE SUMMARY

INTRODUCTION

This report was prepared in response to a request by the RCMP Senior Gaming Specialists that a study be conducted into legalized gambling in western societies. Legal gambling issues are discussed in general with an emphasis upon legalized casino gambling. An examination was made of legal gambling in Nevada, New Jersey, New York, Great Britain, the Bahamas, Australia, New Zealand, France, Monaco and Switzerland. However, this executive summary is concerned primarily with England and the United States.

MODELS ANALYSED

The Nevada model is a highly developed revenue producing system of casino gaming which, due to its employment impact, economic spinoffs and large tax revenues, is vital to the economy of the State. The New Jersey model was intended to enhance urban renewal, raise state tax revenues and eliminate or reduce illegal gambling operations. New York is important for the thorough exposition of the reasons for which legal casino gaming was originally proposed, and the reasons for which it was later rejected. Great Britain is a jurisdiction where legal gambling, including casinos, off-track betting shops, sports pools and lotteries, was adopted, not to increase tax revenues or create new employment or economic benefits, but to control and curtail the development of illegal gambling.

RESEARCH OBJECTIVE AND METHODOLOGY

The objective of this study is to provide information on issues related to the enforcement, regulation, and consequences of the introduction of various forms of legalized gambling.

Data were collected from law enforcement and Justice agencies and other relevant government agencies, professional contacts and libraries in the United States, England and Australia. Interpol aided in the collection of some of the information from other countries which might have unique experiences with respect to legalized gambling that might prove pertinent to Canada.

The distinctions between gaming (casinos) and gambling or betting (non-casino activities) are important. Facts and conclusions which are applicable to casino gaming may not be applicable to other types of gambling and vice versa. For purposes such as tax revenue or organized crime control, a clear distinction must be made between casino gaming and other forms of comparatively low-stakes gambling such as horse-race betting, lotteries and sports-betting. Casino gaming may be similar to other forms of gambling but it is a significantly different activity. Thus, controlling casino gaming involves different insights and conclusions. The issues involved in the operation and control of casinos are more complex and defy simplistic rules.

JUSTIFYING THE LEGALIZATION OF GAMBLING

In relation to legalizing gambling there are really two distinct questions:

1) What are the costs and benefits of activities such as off-track race betting, sports betting, and betting shops?
2) What are the costs and benefits of casinos and slot-machines?

Five arguments support legalization. In practise these goals have not been equally realized.

1) Gambling can be a significant source of new tax revenue (i.e., casinos in Nevada and in Atlantic City, and Canadian lotteries.)
2) the gambling industry can provide significant employment (i.e., Nevada and New Jersey casinos).
3) the gambling industry can revive a stagnant local economy (i.e., Casinos in Atlantic City, New Jersey, and as proposed but rejected for the Catskill Region of New York).
4) Legal gambling can curtail illegal gambling (i.e., Sports Pools, and local betting shops in Great Britain).
5) Where the introduction of legal gambling appears inevitable, regulations can control the growth of gambling activities (i.e., the British policy of strict control of all forms of betting and gaming).

PROBLEMS ASSOCIATED WITH LEGAL GAMBLING:

1. Overestimation of Gambling Tax Revenues

The profit and revenue potential is often overestimated by politicians and entrepreneurs of legal gambling. Several factors must be taken into account.

a) Novelty: When a new form of legal gambling first appears it may enjoy a period during which daily profits are higher than over the long-term.

b) Monopoly vs. Competition: If a jurisdiction is the first to introduce a particular form of gambling it may have an unusually wide and profitable market. When other jurisdictions develop the same or a similar activity, competition may substantially reduce profits.

c) Revenue Switching: Gambling revenue should not be seen as entirely "new" money. To some degree it represents consumer expenditure switched from other sectors of the economy. Some proportion of what a government may receive in gambling revenue it may lose in sales taxes from consumption of other goods and services or loss of investment capital in other industries.

Likewise, gambling revenue may "switch" to a new form of gambling activity, from an older activity. For example, even after some efforts had been made to balance the negative effects of Off-Track Betting (OTB) on the horse-race industry, the 1981 report of the New York State Racing Industry found that the competition from OTB had continued to increase, causing a serious cash flow problem for the race tracks, resulting in purses insufficient to maintain a high quality of racing. A similar result was observed in Britain with respect to betting at Race-track Totalisators (The Tote). The Tote began in 1928 as a system of racetrack betting to enable racegoers to bet and to raise money for the racing industry. However, since The Betting and Gaming Act 1960, which permitted off-track betting shops to accept cash bets on a wide variety of events inducling horse-races, Tote betting has fallen substantially in popularity. This is important, not because of possible harm to any one gambling activity, but rather because it negatively affects the horse-racing and horse breeding industry as a whole, and may seriously distort estimations of revenue potential.

2. Revenue Dependency

A government may become dependent on gambling revenues. It then must attempt through advertising and other means to create a market for gambling, i.e., to induce more citizens to gamble. The lottery advertisement in Canada would serve as an example of this active government recruitment of participants. The issues of government inducement of gambling and government preference for gambling revenue over more broadly-based tax reform are both worthy of consideration.

3. Additional "costs" Associated with Legal Gambling

a) Law Enforcement Costs

A jurisdiction that is considering legal gaming must be prepared to pay, or legislate that the casinos pay, for expensive regulatory bodies to guard against the influence and infiltration of organized crime. In New Jersey, some of these costs are absorbed by casino managers who must pay for the regulatory boards and commissions, and for enforcement within their establishment. The applicant must also pay for the investigatory processing of his casino license application.

In addition to the costs involved in attempts to restrict organized criminal infiltration, the New Jersey Interim Report on Casino Gambling noted that casinos create classic conditions for large increases in street crime, a large, transient, tourist population, a permissive social environment, accelerated commercial activity, large amounts of cash in circulation and a large influx of persons attracted to such an atmosphere for criminal purposes. The increased levels of law enforcement and the cash losses must be subtracted from estimates of revenue profit which the casinos create. Even though the casinos pay for enforcement within their establishments, the increased enforcement costs on the street are paid for by the community.

b) Regressivity

A gaming tax is said to be regressive if a greater proportion of the revenue is obtained from gamblers earning low to middle incomes rather than obtained from all players as an equal proportion of their incomes. Therefore, if a gambling activity has a high tax "take-out" rate and if this form of gambling is particularly popular with lower income players then that particular gaming tax would be regressive. A gaming tax is said to be "progressive" if a greater proportion of the revenue is obtained from gamblers in the higher income brackets.

Studies in the United States indicate that sports cards, lotteries and bingos are regressive while pari-mutuel betting, sports books and casinos (for tourists in the areas where the games are played) are progressive. Governments, in the quest for revenue, often turn to the high takeout games which are also highly regressive (i.e., sports cards and lotteries).

Governments have aggressively marketed their gambling activities in an attempt to achieve and to maintain a high level of participation. Whereas investment in lotteries is "voluntary," the barrage of advertisements and the accessibility of the games have a direct and intentional influence on the population.

c) Compulsive Gambling

The potential for legalized gambling to encourage compulsive gambling remains unknown. What is known is that people gamble more, the more available gambling becomes. The gambling industry in Atlantic City now takes more seriously the claims of compulsive gamblers that they were encouraged or even lured into gambling. An increasing number of law suits are being filed against the casinos.

4. Legal Gambling for Tax Revenue Purposes and the Law Enforcement Trade-Off

Our study indicates that extensive economic profiles, clearly acknowledged aims and "rigid" control systems are all affected by compromises and contradictions, some predictable, some unpredictable.

Evidence shows that if the incentive for legalization is to obtain greater government tax revenue and economic growth then compromises must be made which can adversely affect the legal and social control of gambling. In order for government revenues to be significant, the casinos or betting offices, (government owned, or privately owned with taxes accruing to the government) must either have a large profit margin (i.e., lotteries) or a large turnover in gambling activity (i.e., casinos in the United States).

The profit margin in the New Jersey Casinos may not be particularly large but the number of gambling transactions, and the additional non-gambling activities which are taxed, result in significant government revenue. Research in Great Britain and in the United States indicates that where the government institutes a significant tax on such legal gambling establishments as "betting offices" and "off-track betting shops", serious gamblers will bet with illegal operators and get better odds.

(a) Compromise -- The Example of Atlantic City

The New Jersey experience with casino gambling illustrates some of the enforcement "trade-offs". Unlike the development of legal gambling in Nevada and Great Britain, legal gambling in New Jersey was a deliberate policy choice of the state government. In establishing the legal and economic framework for the Atlantic City casinos, State officials examined the successes and failures of legalized casino gaming in Nevada, Great Britain and elsewhere. Carefully planned regulatory and legislative practices were introduced in order to attempt to fulfill the promises that had been made for an economic boom in the Atlantic City area and the promised benefits to the elderly and minority segments of the population. A policy group, composed of members of the

Division of Law, Criminal Justice and State Police, identified potential problems for a casino industry and noted six issues that the regulators of casino gaming would have to resolve:

i. An increase in both street crime and organized crime;

ii. Social dislocation--elderly and minorities;

iii. Consumer protection--issues related to alcohol, tipping and credit;

iv. Unwise land development;

v. Negative environmental results;

vi. Inequitable strains on public resources.

The policy group, in answer to the problems it identified, devised regulations to encourage the best aspects of casino gaming. It recommended:

i. Against the granting of conditional or temporary licenses;

ii. The exclusion or "blacklisting" of persons with criminal backgrounds and associations;

iii. Credit restrictions--credit should not be granted. If cheques were accepted the understanding would be that the cheque would be deposited at the bank within two business days (as in Britain);

iv. Against tipping of casino employees (as in Britain) and against the consumption of alcohol in casino gambling rooms.

Significantly, the New Jersey government compromised on or abandoned each of these recommendations. Important issues of law enforcement and casino control were sacrificed or compromised to facilite easier and more rapid development of casinos. This led to some serious practical law enforcement problems, among which are the casino credit issue, the monitoring of casino revenue and the use of political influence in the casino industry.

(b) Problems with Casino Credit

When regulations for the New Jersey casinos were being considered, it was recommended that no credit be granted except for cheque cashing with deposit due in two business days. Gradually this changed. Credit is now extended to gamblers who have an established credit rating and they are granted 90 banking days (or 120 calendar days) to repay credit over $2,500. These restrictions, as lax as they are, are in practice even less rigidly enforced. The availability of credit is closely related to the issues of organized crime influence (i.e., the use of money obtained from casino credit to fund loan sharking and drug trafficking operations), indebted and compulsive gamblers, and collection difficulties.

Experts conclude that minor changes in credit practices will not adequately combat the schemes of the dedicated gambler or the involvement of the organized criminal. The schemes devised to "walk-with the chips" (i.e., leave the casino with dollars obtained from credit) will change as enforcement or regulations change. According to the former Director of the Division of Criminal Justice, New Jersey Department of the Attorney General, it is necessary to tighten casino credit procedures, and if possible eliminate credit altogether.

(c) Monitoring Casino Revenue

Casino revenue is difficult to monitor. The cash flowing from customer to dealer to management and back is an open invitation for theft. Any "check" system tends only to control one period in the movement of the cash. The operating principle, however, seems to be that enough checks will result in a fairly honest system.

Slot machine operations are vulnerable to revenue skimming, and New Jersey casinos have been found to be highly vulnerable to credit frauds engineered by insiders and their outside co-conspirators.

Middle-level employees of Bally's casino and an outside criminal group defrauded the casino of $4 million within a two week period in the summer of 1980. In 1981, Resorts International and ten casino officials were charged with the violation of casino credit regulations for their involvement in a scheme that defrauded Resorts International of $4.1 million.

(d) The Casino Industry and Political Influence:

The interest of casino operators in larger profits leads the industry to lobby government for a less restrictive environment in which more gambling and greater profits can be achieved. The lobbying capacity and political influence of the industry should not be under estimated.

Casino operators engage in extensive direct lobbying of politicians. Casino executives attend and contribute to fund-raising functions, and politicians are invited and entertained at the casinos. The industry offers favours to political figures and exerts whatever influence it has with political figures.

The casino industry also employs lawyers and representatives who are perceived to have political influence. The law firms employed by the industry are often those that are most active in raising funds for key politicians. Finally, the casinos have been active in employing former high level government officials as representatives of the industry.

None of these activities is illegal--however, legal gambling is always a trade off between greater casino revenues achieved under liberal gaming laws and keeping out organized crime via restrictive gaming laws and careful regulation. Thus the political influence of the casino industry and the capacity to lobby successfully for "liberal" regulation and control of gaming, directly affects the issues of organized criminal infiltration of the industry.

LEGAL GAMBLING AS COMPETITION FOR ILLEGAL GAMBLING

The following seven factors must be acknowledged in attempting to replace illegal with legalized gambling.

1. Tax Free Gambling - Illegal gambling usually is not taxed. Therefore, to the extent that legal

gambling is taxed it has less funds available to be distributed to the winners. Even where legal gambling opportunities exactly duplicate illegal opportunities, some gamblers may prefer illegal modes for the marginally greater return on winnings. The 1968 Royal Commission on Gambling (Great Britain) made the following comments on the relationship between illegal gambling and legal gambling:

> The incidence of illegal betting is in our opinion quite simply a function of the combined rates of duty and levy on betting...it is likely to increase rapidly once the combined rates have exceeded a certain critical point. Where that point is can be ascertained with certainty only by testing the system to destruction, which we do not recommend.But the evidence we have received suggests that the present combined rate of 8.5%...is running it dangerously close.

2. Anonymity - Illegal gambling usually occurs in secrecy, which may allow gamblers to avoid taxes, hide their betting habits, remain anonymous, and hide large amounts of cash.

3. Credit Operations - High risk credit extended by illegal operations cannot be matched in most legal operations. The ethics of encouraging indebtedness and the difficulties associated with collection are more easily resolved by illegal operators.

4. Better Odds - Illegal gambling operations often offer more advantageous odds, or odds that seem more advantageous. Greater familiarity with illegal operations and the ability to inquire

about the odds may make these illicit operations seem more attractive.

5. Informal Social Network - A more abstract advantage relates to the social aspect of illegal gambling which is largely missing from bureaucratic legal gambling organizations. State-operated games may actually be viewed with hostility as an intrusion into local games. This is not to suggest that all illegal games involve close personal interaction, but that this interaction is a consideration in some bookmaking operations and in poker games.

6. Convenience, Simplicity and Immediacy - Illegal bookmakers offer the convenience of telephone betting and credit. Some legalized gambling establishments, (e.g., OTB's, New York City) allow telephone betting but only against funds previously deposited. In Britain, telephone betting is permitted, but only those who have an established credit rating with the bookmaker are allowed to bet in this way. Highly accessible betting facilities, cheap tickets, fast draws and quick collection procedures are additional conveniences which legal gambling must achieve and maintain.

7. Variability - Illegal bookmakers accept bets on other sports as well as horse-races. The variability issue is somewhat different in Britain where Betting Shops and Sports Pools offer an unlimited variety of bets (horse-races, greyhounds, beauty contests, general elections, etc.) with several types of odds (fixed odds, Tote odds,

or multiple bets). It would seem that the British scheme of licensed betting shops and sports betting pools has resulted in greater control being exercised over illegal gambling by public authorities, and more effective enforcement of gambling laws. The betting shops and pools cater to the low stakes bettor who wishes to bet occasionally upon favourite sports or races. They provide an alternative to numbers games and illegal sports betting.

Experience in the United States does not accord with that in Britain. A study conducted for the Commission on the Review of the National Policy toward Gambling stated that, after recognizing other functions, the existence of a State lottery appears to encourage rather than discourage gambling on numbers. It has been argued that if there is any substitution of the legal for the illegal game, it is more than compensated for by the opposite effect, complementation, where participation in one tends to increase the probability of participation in the other.

LEGAL GAMBLING, LEGAL CASINOS AND ORGANIZED CRIME

It must be remembered that curtailing the amount of low stakes street betting (as has apparently been achieved in Britain) is not the same as ousting organized crime. Both the Gaming Board for Great Britain and The Task Force on Legalized Gambling in the United States concluded that organized crime is not easily expelled from gambling activities even when some methods of gambling are legalized.

Wherever casinos are found, they are inseparable from organized criminal activities. Virtually every study undertaken in the United States, Britain, Australia and elsewhere points out that casino gaming, whether illegal or legal, encourages organized criminal activity. A former prosecutor in the New Jersey Attorney General's Department has noted that organized crime must always be recognized as an interest group with respect to legal gaming. If a jurisdiction is not willing to accept this involvement then it should not get involved in legalized gaming.

Four main factors explain the attraction between casinos and organized crime.

1. Observations in Britain, New Jersey and Nevada indicate that casinos always involve large cash flows changing hands quickly, with the potential for substantial profits. These large, quick-moving cash flows and potential profits are an invitation to organized crime.

2. Casinos are an attraction to organized criminals because they offer the possibility of laundering other illegally gotten funds. The cash-flow of the casino allows criminal proceeds to be easily intermingled. It is virtually impossible to verify or refute a claim that large, otherwise unexplainable sums were won at a casino.

3. Where easy credit is available from casinos (Nevada and New Jersey, but not Britain) organized criminals can use legitimate borrowed money to finance illicit enterprises, e.g., loan sharking and drugs.

4. The fourth factor is less easily defined but is readily detectable in transcripts of testimony given by casino operators and through the documented casino gambling records of organized criminals. Casinos provide an exclusive club-like atmosphere where organized criminals (and other high-rollers) can enjoy the excitement of high risk gambling in a luxurious setting of first-class meals, rooms and entertainment which often are free to valued patrons.

This interaction between the casinos and organized criminals is mutually rewarding. It became clear from the testimony of casino credit managers in Atlantic City that clients with high cash potential are courted by casino managers. This is true even when the casino's files record evidence of failure to pay, serious criminal involvement or other "derogative" information on a particular customer. Likewise, the lavish treatment and services of these grand casinos provide the criminal with the social outlet and acknowledged prestige that his semi-invisible, clandestine existence denies.

PUBLIC OR PRIVATE OWNERSHIP

The debate in New York State over legal gambling raised two central questions:

1) How will casinos be regulated?
2) Who will control casinos?

The Report of the Task Force on Legalized Gambling noted that the argument favouring privately owned casinos was that they would be more efficient and therefore more profitable for revenue purposes. The rationale for state ownership was that with greater state control it was more likely that the influence of organized crime could be eliminated. Some analysts of gambling in the U.S. argue that there is little reason to believe that State employed casino operators and dealers would be any more honest than private employees.

The following four factors are related to government ownership:

1. It might be easier for officials within a State bureaucracy, either for self-interest or political reasons, to allow illegal activities such as regulation violations to go undetected, unreported and unprosecuted.

2. The State could be caught in a conflict of interest; on one hand the acquisition of revenue, on the other, law enforcement concerns. The larger and less restricted the gambling activity the greater the revenue, but also the greater the enforcement difficulties.

3. The State might be unwilling or politically incapable of extending the large amounts of capital necessary for the construction and initial operation of competitive, luxurious, casino-hotels, with popular amenities such as easy credit, junkets for big gamblers, free liquor, entertainment, and other inducements. As a result, state-run casinos would likely be less popular and therefore less efficient in raising revenue. The issues here are largely political. How can a government justify to the electorate the building of expensive, luxurious casino-hotels? Likewise, the spending of public money to provide junkets for wealthy high-stake

gamblers and liberal credit for such gamblers may be criticized.

4. The State might be unwilling or politically incapable of matching the high salaries paid by the private sector gaming casinos. As a result the state might have some difficulty in attracting and keeping the most competent casino managers and operators. This would be reflected in the operators efficiency, profitability and ability to detect and enforce the controlling regulations of state run casinos.

BRITISH VERSUS AMERICAN MODEL: A QUESTION OF VALUES?

A final issue which must be considered in the Canadian context relates to the social values of our society. The Nevada and New Jersey models of legal casino gaming are based upon the themes of economic development, employment, and gaming tax revenue for the government. The British model, which has been referred to as the "strict social control club model", is based on the view that gaming is an inevitable evil that cannot be ignored but definitely ought not to be encouraged. The "club" is seen as a way of restricting a vice to a particular area and class, (leisure class) so as not to allow the "social problem" to spread. If the gambling clubs closed due to lack of business, the British Government probably would not be concerned, and in fact the closure might be viewed positively. The British, officially at least, do not see legal gaming as a preferable source of tax revenue.

If jurisdictions in Canada are considering legal casino gaming they should examine these two alternative methods of control. However, aspects of these alternatives may not be compatible with the values and attitudes of contemporary

Canadian society. Each "model" is a product of the social attitudes and values of a particular society. A Canadian jurisdicion might be able to establish a stringent control system and restrictive "members-only" casino model such as in Britain but such a system might not be politically saleable nor legal given the Charter of Rights and Freedoms.

I. REVIEW OF LEGALIZED GAMBLING RESEARCH

Introduction

Seldom is legalized gambling introduced without some justification or motive apart from the potential enjoyment, by the players, of the gambling activity. The sentiment remains, even where gambling is established, that pleasure alone is not justification enough. Legalized gambling must "do something" beneficial for society. The justifications most often cited are to raise revenue, to revitalize a deteriorating area, and to fight organized crime by drawing the market for gambling away from the criminals. Research indicates that the consequences arising from legalized gambling can be predicted and these effects relate directly to the goals of the jurisdiction that establishes the regulations under which legalized gaming operates.

The serious study of legalized gambling began in 1974, when the National Science Foundation published a monograph by David Weinstein and Lillian Deitch titled The Impact of Legalized Gambling: The Socioeconomic Consequences of Lotteries and Off-Track Betting. In 1976, the Commission on the Review of the National Policy Toward Gambling published Gambling in America and in England, in 1978, the Home Office Research Unit, published Gambling: A Review of the Literature, by D.B. Cornish.[1]

Justifying the Legalization of Gambling

1. The Revenue Debate

A. The Regressivity Question

One of the problems with studies of legalized gambling is an implicit but unacknowledged value judgement about "good" and "bad" gaming operations. Values may have a place in an analysis of this phenomenon; however, they must be clearly stated, so that the argument may be assessed. The issue of regressivity is one such area, entangled with moral judgements, paternalism and criticism of State taxation of legalized gaming. The Gambling in America report states that:

> The survey results tend to support the arguments of those who claim that establishing Nevada-type gambling in densely populated areas will foster participation by those who can least afford it.[2]

Peter Reuter comments in rebuttal:

> It is hard to interpret this as anything other than a moral statement about gambling. The attractiveness of gambling to lower income groups is seen here not as an argument to permitting the less fortunate to enjoy one of their recreations but as a reason to continue to place the game in locations (such as Nevada and the Caribbean) where it can only be reached by the more affluent.[3]

A gaming tax is termed "regressive" if a greater revenue is obtained from individuals making low to middle incomes rather than equally from all individuals as a proportion of their income. That is, if person A, earning $20,000 per annum, loses the same amount of money while gambling as person B, earning $50,000 per annum, the loss is proportionately greater for person A, as a percentage of annual salary. The tax paid on the two sums although equal, would also be proportionately greater for person A, and would therefore be deemed regressive.[4]

American data collected in 1975 for the Commission for the Review of the National Policy Toward Gambling, indicated the degree of regressivity of several types of gambling. The analysis indicates that state lotteries are twice as regressive as sales taxes, with "numbers games" and sports cards potentially even more regressive. Off-track betting and sports bookmaking, on the other hand, could be progressive. The casinos studied were in Nevada, and the cost of getting there and expenses involved in staying near the clubs resulted in an upper-class clientele. Therefore, for the U.S. as a whole, the Nevada casino tax was progressive; however, for Nevada residents, casinos were more regressive than for the general U.S. population.[5]

According to the analyses of Suits and others there is significant variation among various legalized gaming activities with regard to regressivity/progressivity:

sports cards	- highly regressive
numbers	- highly regressive
lotteries	- regressive
bingo	- regressive
horse books	- regressive
pari-mutual	- proportional
off-track betting	- proportional
sports books	- proportional/progressive
casino (for non-residents)	- progressive

Suits observes that the more regressive types of gambling are uniformly games with high take-out rates, i.e., percentage of gambling proceeds that are not divided among the winners but go instead to the State, charities, or organizers. The most regressive games--sports cards, numbers, state lotteries--have take-out rates that exceed fifty percent. Casinos and sports books are characterized by low take-out rates.[6]

State dependence upon lottery tax revenue has been particularly criticized because it is more regressive than some other forms of legalized gambling and the State in most instances has a monopoly on the activity. Therefore, the State not only rules out competition but also is free to set arbitrarily the gaming tax, unrestrained by betting trends, number of winners or similar considerations. Research conducted by Brinner and Clotfelter, using 1973 fiscal year figures for the excise tax as a percentage of the total cost of running lotteries, reveals the wide variation from State to State.[7]

State	Cost as % of Ticket Sales Revenue	Tax Revenue as % of Ticket Sales Revenue	Excise Tax Rate (Revenue as % of Cost)
New Hampshire	62	38	61
New York	52	48	92
New Jersey	55	45	82
Connecticut	58	42	72
Pennsylvania	54	46	85
Massachusettes	54	46	85
Michigan	54	46	85
Maryland	60	40	67

As indicated, the sales revenue is divided between the cost of running the lotteries (including prizes) and the State tax charged. The widest division is in New Hampshire, where 38% of the sales revenue goes toward taxes and 62% goes to costs. Therefore, in that State the tax revenue is 61% of the costs. In New York, the division is quite different with sales revenues being divided up 50% for costs and 48% for tax resulting in the tax portion almost equalling the cost portion (92%). There is no available information to explain how the individual States decide what proportion to charge. Some writers claim the take-out may reflect the moral view of the State toward the gambling activity with the higher tax reflecting an attempt by the State to dissuade people from spending their money on gaming. This argument is undermined by the aggressive advertising and market-oriented approach of the state lotteries and the general lack of public awareness as to what the tax take-out is for any particular gaming activity.

Not all legal gaming operations are monopolies and the controlling agency does not always dictate the take-out or costs to the gambler. In Nevada, the State sets only the tax rate on casino winnings. The casino management, via the rules, determines the player's disadvantage, which may vary between games, from one casino to another, and with the expertise of the player. Therefore, competitive pressures in the casino market help to determine the price of a casino game. States could control casinos but only by establishing and controlling the rules of the games offered. In New Jersey, casino games operate under more rigid rules than in Nevada, but the element of competition remains. In contrast to casinos, the pari-mutual betting tax is a proportion of the total amount wagered (the "handle") rather than the level of gross profit or winnings as in casinos. Therefore, the State sets the take-out rate, i.e., the proportion of money not returned to bettors.

If society in general is concerned about who is bearing the burden of gaming taxes, then Suit's argument regarding regressivity and differential take-out is important. A tendency can be detected for governments, in their quest for revenue, to turn to the high take-out games, which are also the most regressive. The State tax revenue (i.e., a large proportion of the take-out), voluntary or not, may be coming from less affluent groups. The problem may not lie with the taxation rate, or with the fact that a segment of the population desires to spend a larger percentage of income on gaming than does the rest of society, but with the fact that the state has a monopoly and can dictate the rate of take-out. It is ironic that among the various illicit gambling activities, law enforcement has traditionally been most concerned with those forms which are viewed as "exploitive monopolistic." Some legal gambling operations--state run or private--may also be so designated.

B. The Cost of Legalized Gambling Revenue

There are two interconnected aspects to this concern: first, the actual cost of obtaining each dollar of revenue, and second, the revenue potential of the gambling "market" as a return on the cost involved in providing the organization and machinery necessary to capture the market.

Blakey, among others, argues that gambling regulation costs much more than other forms of taxation. Using lotteries as an example, he estimated that fifteen to forty percent would go to expenses while more regular forms of tax cost about five percent. Blakey argues that politicians and others interested in encouraging the legalization of gambling tend to overestimate the profit potential. Often large sums of money are mentioned in pro-legalization discussions based on simple multiplication of one year's revenue, with no consideration given to the effects of increasing competition, loss of the novelty aspect, and other factors. These revenue figures--even if they could be realized--would represent only 1.3% to 4% of revenue requirements. The Task Force on Legalized Gambling estimated that even lotteries operating at an "optimal" level would yield in most States only 1 or 2 percent of the revenue of state and local government.[8] Since Las Vegas is dominated by gambling operations, the tax revenue from this activity does in fact represent the highest tax source; however, Las Vegas is in many ways unique as will be noted later in this analysis.

State government lotteries require constant and expensive promotion in order to compete with out-of-State lotteries and alternative in-State legal and illegal gaming activities. Once the machinery is in operation, the State must act as a business manager, i.e. selling the gambling product, while having to set aside other, possibly more serious, and perhaps more appropriate, political issues such as the ethical considerations related to State-run and State-promoted gambling. Stocker observes that there is no other form of consumption that receives such official encouragement as gambling.[9]

Intense state involvement in gambling activities brings into question the "voluntary" aspect of certain forms of gambling. To argue, for example, that investment in the lottery is voluntary, ignores the barrage of advertising, differential access to commodities and the accessibility of the lottery game--with some evidence that the games are more accessible in poorer areas than in more affluent areas. Blakey comments that:

> persuasion may be more dangerous than coercion. A person realizes it when he is forced to pay a tax, but not necessarily when he is enticed to gamble.[10]

He describes three stages in the "selling" of gaming. The early New Hampshire experience represents phase I, where the lottery benefited from being a novelty and from being a monopoly. The State can, therefore, adopt a "take it or leave it" approach. The second phase is exemplified by the sophisticated "consumer-product approach" to lotteries in New Jersey, where the State makes vigorous attempts to tap the gambling "market". The lottery established in 1970 in New Jersey was based on an examination of the New Hampshire and New York legislation and introduced a number of competitive measures:

a) lower-priced tickets;
b) more frequent drawings;
c) more outlets;
d) numbered tickets in lieu of recording purchasers' names and addresses;
e) better odds;
f) energetic promotion.[11]

The third phase finds the State so committed to lotteries as an essential source of tax revenue that it must find or create a continuously increasing market for gaming. Blakey argues that in this stage the lottery is being substituted the introduction of a broad-based income tax in New Jersey or tax reform in New Hampshire, which would meet stronger political opposition.[12]

Similar criticisms have been directed toward off-track betting, which has been found to be costly both in terms of operating expenses and in the harm done to the racing industry. Hickman argues that the revenue question must be viewed as a zero sum game, whereby revenue gain in one area implies a shift away from some other recipient or gaming activity, and dollars spent on gaming of any sort removes dollars from other consumer activities.[13] Research indicates that the State should not view legalized gaming revenue as being "found money" because it is in most cases money that would have circulated via some other means. If the purchase of lottery tickets or betting are at the expense of taxable consumption expenditure, then the net revenue from gambling must be reduced by the amount of lost sales tax revenues.[14] Hickman states that the revenue gain in New York City was primarily at the expense of the State government and the horse racing industry, because many OTB patrons were lured from the race tracks. In support of this conclusion, the Twentieth Century Fund asserted that there was no justification for the highly publicized expectation that legalization of gambling would provide an important source of revenue for State treasuries.

The costs of the revenue gained from legalized gambling vary with the different forms of activity pursued. However, some general expense trends seem to apply to gambling in general due to the constant need to promote the gaming activities. Rose describes the stages that are apparent in what is often a declining growth curve:

a) initial interest, novelty, monopoly and therefore high profit (this stage is often used to inflate estimates of revenue potential);
(b) saturated market;
(c) rapidly increasing competition--often occurring well after the initial decline of the activity;
(d) rapid drop in player interest;
(e) growth of State reliance on revenue from gambling;
(f) increased advertisement and promotion;
(g) introduction of new variations and exotic forms of gaming--no longer concerned with substituting for illegal gaming activities;
(h) active and continuous expensive promotion by the State.[15]

Suits, summing up the revenue debate, argues that "whatever else it may be, gambling is not a fiscal panacea, and we would be foolish indeed, to expect it to provide much in the way of budgetary relief".[16]

C. Additional "Costs"

In addition to financial expenditure, the dependence of the state on legalized gambling revenue may incur other types of costs:

(i) Harm to Horse Racing Industry

Off-track betting can attract wagering that previously occurred at race tracks. The New York horse racing industry is an excellent example of the unanticipated (or ignored) consequence of the drive for gaming revenue. The indirect costs in terms of injury to the horse racing industry are critical and ironic, because the co-operation of the industry was important in the development of off-track betting in New York City. Coate and Ross state that:

> The co-operation from the horse racing industry was secured by assurances by the state government that off-track betting would not prosper at the expense of the industry itself. So far this has not been the case.[17]

In 1972-73, after it became apparent that harm was being done to the racing industry and the revenues of State and local governments were being threatened, a moratorium was placed on OTB while the problem was studied. There was an obvious need to increase race track attendance at least to the level reached before the introduction of OTB, and it was necessary to return a greater share of the revenue to the track operators and horse owners. This was eventually done by establishing a number of constraints. The hours of OTB were restricted in order to allow on-track betting to compete, and off-track bets could only be placed on races run outside of the region where the bet was being placed.

Nevertheless, the 1981 report on the New York State Racing Industry found that:

> The competitive aspect of OTB has continued to escalate. Although total wagering on racing has increased signi-

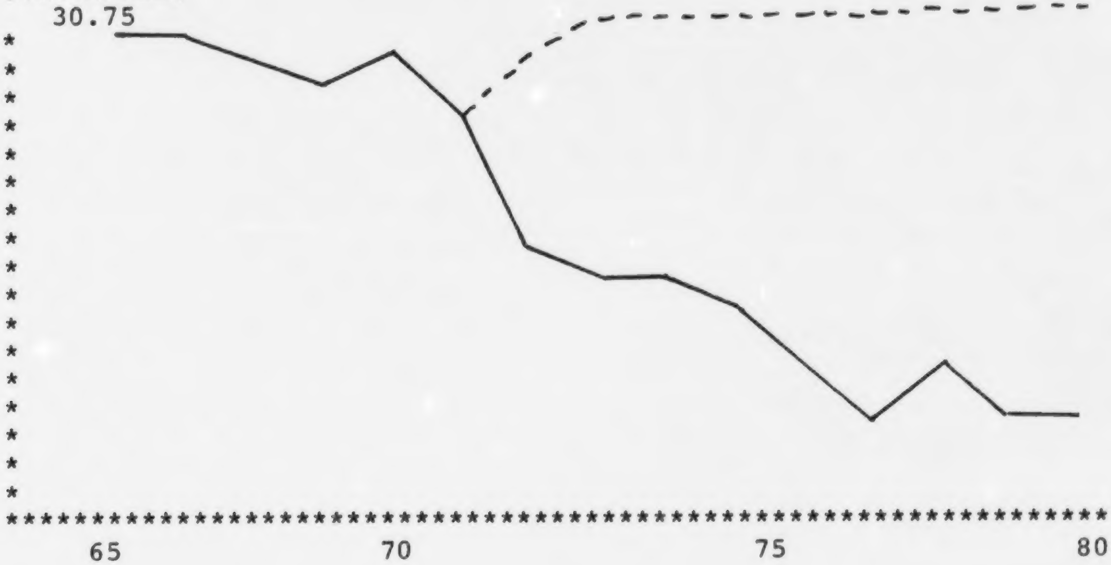
> ficantly, there is evidence that the shifting of wagers and the associated revenue distributions have caused serious cash flow problems to the tracks and purse levels insufficient to maintain the high quality of racing that has brought the sport to preeminence in New York.[18]

Race track betting is affected also by other forms of gambling. The New York study concluded that the downturn in the racing industry was due to the gas crises of 1974 and 1979 and the subsequent rise in gas prices, to the competition from New Jersey when the Meadowlands Sports Complex opened in 1976, and the development of New Jersey casino gambling in 1978. Another problem is the constant need for OTB operations to expand in order to meet their operating expenses. This final point is critical to New York OTB because it appears that the betting corporations have reached their maximum level and have saturated their current market:

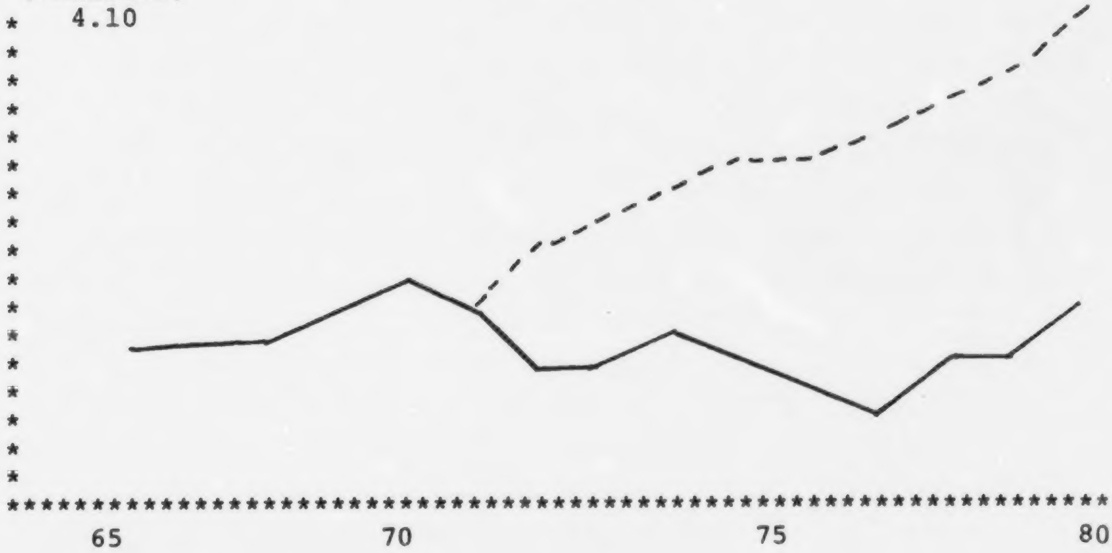
> It is apparent that the corporations will experience slow growth in the future while expenses will outpace that growth. The end result will be less net revenue available for local governments.[19]

The following two pages show, first, pre-OTB projected attendence and daily handle as compared to the actual post-OTB attendance and daily handle, and second, the combined OTB profit/loss projection running through 1986.[20] As the charts indicate, the broken line represents an estimate of daily track attendance if OTB were not operating and the table shows the decreasing net revenue and increasing expenses of operating OTB. Together these figures reveal a saturated betting market.

NEW YORK RACING ASSOC.
AVE. DAILY ATTENDANCE
(1965-1980)



NEW YORK RACING ASSOC.
AVE. DAILY HANDLE
(1965-1980)



Broken line represents projects of pre-OTB trends
(projections based on 1960-1972 data)

COMBINED OFF-TRACK BETTING PROFIT/LOSS

($ Millions)

	ACTUAL				EST.
	1977	1978	1979	1980	1981
Handle	1,128.1	1,206.5	1,372.0	1,462.6	1,506.4
Operating Revenue	148.7	154.4	168.7	179.6	183.6
Expenses	94.3	103.5	112.9	129.7	143.6
Net Revenue	54.4	50.9	56.1	50.2	40.1
Surcharge	48.5	51.5	59.2	62.7	65.9
Total Distributions	102.9	101.4	115.3	112.9	106.0

	PROJECTED				
	1982	1983	1984	1985	1986
Handle	1,573.3	1,601.6	1,627.1	1,653.8	1,680.9
Operating Revenue	191.1	194.6	197.5	200.8	204.1
Expenses	152.9	163.0	173.4	183.8	194.5
Net Revenue	38.2	31.5	24.1	17.0	9.6
Surcharge	69.2	70.4	71.5	72.7	74.0
Total Distributions	107.4	101.9	95.6	89.7	83.6

Total may vary slightly due to rounding

(ii) Disrespect for Gambling Laws

> In no field of...endeavor has the ingenuity of man been more exerted than in the invention of devices to comply with the letter, but to do violence to the spirit and thwart, the beneficient objects and purposes of the laws designed to suppress the vice of gambling.[21]

Helsing, in Gambling in America, refers to the "benign prohibition" against certain illegal games which are given low priority by law enforcement agencies. The State may find it necessary to "side-step" the law in carrying out its gambling activities. As Blakey acknowledges, States have often flouted federal laws and have created special tax loopholes for winnings, and treated State-run and unlawful gambling inconsistently. For example, to avoid violating the law against mailing lottery prizes, lottery officials in New York would open a bank account in Albany in the winner's name, then close out the account and have the bank mail a bank draft to the winner.[22] State legislatures have found, or created, provisions in taxation laws to allow competition with illegal gambling and to increase State revenues to the detriment of the confidence inspired in the tax system. In some states, such as New Jersey, the law is enabling both in what it does not contain; i.e., adequate accountability regarding credit violations, and in terms of what is contained; i.e., a 4% gross revenue write-off for bad credit debts.

The movement towards legalized gambling in most countries has been gradual and piecemeal. One result has been that existing laws are ignored or circumvented, and occasional changes must be made to avoid blatant violation of statutory prohibitions. These periods of "benign prohibition" are often part of an ongoing cycle which fluctuates between tolerance and moral outrage at abuses which then leads to more effective but sporadic enforcement.

As Block states:

> ...the more flagrant abuses of public tolerance lead to imposition of controls on the more egregious aspects of public gambling enterprise. This in turn, frequently leads to further efforts to extend control, occasionally ranging from rigid prohibition of off-track betting to the curbing of bingo games. Attempts at such broad control have invariably led in the past to wide-spread public tolerance of syndicated underworld control, to syndicate absorption or domination of legitimate enterprises, and more disastrously, to deals with and pay-offs to corrupt law enforcement officials. Usually the next stage is indignant public recoil and an attempt at new approaches and appraisals, leading to greater relaxation of existing standards or more feasible legal control... further relaxation...abuse of public tolerance...efforts to impose rigid restrictions.[23]

Enforcement policies reflect to some extent the sentiment of the public. Various writers emphasize the point that the public can affect the moral context in which the laws are enforced. A contradiction may exist with reference to so-called victimless crimes, i.e., gambling, prostitution, liquor violations, etc.--where there may be a public desire to outlaw the activity but a lack of motivation or even tolerance for strict enforcement.

One key concern in any situation involving vast discretion in enforcement is police corruption. The potential for abuse is particularly high in gambling enforcement due to the large amount of money, the lack of visibility and the clientele of some gambling establishments.[24] Legalizing a gambling activity does not remove--and may increase--the potential for police or political corruption because regulations must be enforced, licenses must be granted, and tax revenue must be calculated and paid.

(iii) Compulsive Gambling

Two of the three important studies mentioned at the beginning of this report have been criticized for ignoring or minimizing the issue of the compulsive gambler. They refer to findings that support the belief that more people gamble when gambling is legal but this information is not treated as significant to any decision regarding legalization.

A critique of the treatment afforded compulsive gambling is provided by Martenez and Landsberg, who refer to the "cursory and inept handling of the compulsive gambler."[25] Their critique of the Weinstein and Deitch study comments on the reference to compulsive gamblers as mere "over-indulgers" and rejects the suggestion that the number of such persons is negligible. Martenez and Landsberg take the figure 6 million to be a conservative estimate, based on research which has failed to clearly define compulsiveness and therefore, fails to identify compulsive gamblers in the United States. They argue that there is a real social problem which must be considered by those making gambling policy. The compulsive gambler, they emphasize, affects not merely himself, but becomes a major burden to society in terms of criminal acts he may commit, work ineffectiveness, family disruption, impoverishment, incarceration, suicide, etc.

Reuter argues that the issue of the compulsive or potentially compulsive gambler may be at the base of the often loosely argued positions against legalization that fall short of becoming moral arguments. Reuter states that the authors of Gambling in America began by agreeing that it was important to obtain some information about compulsive gamblers, but very nearly ignored the two research studies which addressed this issue. He refers to the "vague reference" made to the social costs of compulsive gambling and states that this acknowledgement scarcely constituted a "meaningful discussion of the problem".[26]

It is estimated that compulsive gamblers may number as high as 1.1 million plus 3 times as many potential compulsive gamblers. The estimates are only that--estimates--but the need for additional information relating to compulsive gambling, although acknowledged, is never adequately addressed by Weinstein & Deitch or in the Gambling in America study.

The potential for legalized gambling to encourage compulsive gambling remains unknown. What is known is that people gamble more, the more available gambling becomes. Creating new means for compulsive gamblers to easily fulfill their urge may harm the individual and his or her family. However, it is a matter of debate whether or not compulsive gambling and compulsive gamblers is a policy concern. Just as some would suggest that the poor ought to be allowed to spend however much they may choose on gambling, compulsive gambling may be viewed as a private rather than a public consideration. The debate on this issue would be more relevant if more information were available.

Humanitarian concerns aside, if this potential population is as high as some estimates place it, then one could expect the larger society to be negatively affected. With higher reported garnishments of wages, greater instability of employment, greater geographic mobility, greater frequency of alcohol consumption, greater marital conflict and separation, the heavy gambler population appears to be a highly disaffected group. In defending OTB against studies linking excessive betting to marriage disruption and divorce, Weinstein and Deitch state:

> It is just as likely that excessive interest in OTB betting is as much an effect as a cause of marital instability. The bettor may be escaping from the unhappy marital situation to the more satisfying OTB situation.[27]

Martinez & Landsberg comment on the total lack of substantiation for this statement and question whether it qualifies as a positive aspect of OTB even if it were accurate.

D. Dedication of Revenues

"Dedication" means the allocation of specific gambling revenue--or all gambling revenue--to specified purposes. Education, sports, local government assistance, state institutions, property tax relief for the elderly, and individual charities are popular recipients of the dedicated resources in the United States and Canada. Three "advantages" of this use of gaming revenue have been identified:

1. it creates groups of supporters for the passage of the specific legalized gambling legislation;
2. it emphasizes the contribution of the gambling activity to the attainment of "worthy" causes or objectives;

3. it may neutralize objections to government operation of a gambling enterprise.[28]

In some instances the "advantages" may not include an actual financial gain by the recipients. Money obtained from lotteries is sometimes subtracted from what the organization would have received from regular tax sources. It is possible that recipients may actually receive less than they would have through general appropriations. In principle, dedication violates the public fiscal orthodoxy that all State revenue should be placed in a single general fund from which the legislature will make payments based on public needs in accordance with established spending priorities. The practice can deprive a worthy organization of adequate funding in a manner less visible than a clear refusal to allocate State resources.

Dedication of funds is, therefore, useful in order to "sell" the gambling scheme, and less successful as a reliable funding source. It may prove to be only a temporary measure until society comes to accept fully the idea of revenue-generating gaming without the theme of "aiding a good cause" as an additional selling technique.

2. Combatting Organized Criminal Involvement In Legal And Illegal Gambling

It has been asserted that legal gambling operations cannot compete with equal success against all forms of illegal gambling operations. Therefore, some illegal gambling will still occur once the legalization has taken place. More significant is the fact that experience indicates that wherever there is a vast amount of money--either from a legal or an illegal source--organized criminals will strive to become involved in the activity. Profit is not the sole motivation; large-scale cash operations enable criminals to "launder" criminal proceeds. Therefore, it should be expected that organized criminals will continue to participate in some types of illegal and legal gambling operations.

A. Legal Gambling As Competition For Illegal Gambling Operations

The following factors explain why legal gambling might affect illegal gambling operations but not eliminate them.

(i) Tax-Free Gambling - Illegal gamblers are not likely to pay income taxes on their winnings, since these winnings are typically hidden from the tax system. Christiansen & Shagan speak of the "revenue imperative" that may supercede the attempt to combat illegal gambling. If combatting illegal gambling were the sole aim in running OTB operations, then the State would maintain as high a pay-out as possible. However, the desire for revenue often overrides this secondary motive. In New York, the legislature imposed a 5% "temporary" surcharge on off-track winnings and required the regional OTB corporations to follow suit:

> New York City did implement the surcharge on July 1, 1974, and this tax has remained in effect since that date. The surcharge was justified as a revenue measure...this tax is an extraordinarily good example of the force of what might be termed the "revenue imperative" in the development of gambling law.[29]

(ii) Anonymity - There is a certain anonymous character to illegal gambling which some clients desire. This secrecy may allow them to avoid taxes and also hides their betting habits and the existence and availability of large amounts of cash.

(iii) Credit operations - High risk credit extended by illegal operations cannot be matched in most legal operations. The ethics of encouraging indebtedness and the difficulties associated with collection are more easily resolved by illegal operators. New Jersey casinos have been involved in extending high risk credit but an attempt is being made to curtail this gambling incentive.

(iv) Better odds - In "numbers" games the odds are generally 1,000 to 1 and the pay-off is about 600 to 1, less the commission paid by the bookmaker to his runner. Some lotteries offer a better deal, with odds of close to 600 to 1 and a pay-off as high as 100,000 to 1, but there is great variation and usually the odds are less advantageous--or perhaps even more importantly, they seem less advantageous.

(v) Simplicity and Immediacy - Illegal betting is noted for highly accessible betting facilities, cheaper tickets, faster drawings, quick collection.

(vi) Informal Social Network - State run games may be viewed with hostility as an intrusion into the local games. This is not to suggest that all illegal games involve close personal interaction, but that this interaction is a consideration in some bookmaking operations and poker games.

(vii) Convenience - Illegal bookmakers offer the convenience of telephone betting and credit. Some legalized gambling establishments, (i.e., OTB's, New York City) allow telephone betting but only against funds previously deposited.

(viii) Variability - Illegal bookmakers accept bets on other sports as well as horse races. As Christiansen & Shagan argue, "even if illegal horse race wagering were to be wholly absorbed by OTB, the major illegal bookmaking operations, which depend primarily on team sports betting, would survive".[30]

The 1977 Task Force on Legalized Gambling concluded that legalized gambling "is not an effective weapon against organized crime."[31] Likewise, a study conducted for the Commission on the Review of the National Policy toward Gambling stated that after recognizing other functions the existence of a State lottery appeared to encourage rather than discourage gambling on numbers.[32] Hybels states that:

> If there is any substitution of the legal or the illegal game, it is more than compensated for by the opposite effect, complementation, where participation in one tends to increase the probability of participation in the other.[33]

B. Organized Criminal Involvement In Legal Gambling Operations

Legalizing an activity does not assure that the legalized version of the previously illegal operation will not attract organized criminals. Crime is a business and as such it will operate wherever there is a profit to be made--or where the legal operation may serve the enterprise in some illicit manner.

A study of the New Jersey casino industry highlights the numerous ways in which a legal operation may benefit organized crime even if it were possible to prevent their direct involvement in ownership or management:

(i) laundering funds -- the huge cash-flow of a casino allows for easy cleansing of criminal proceeds. It is virtually impossible to verify or refute a patron's claims of winning;

(ii) easy credit and the ability to "walk-with-chips" allows the criminal to use legitimate but borrowed money to finance illicit enterprises, i.e., loan sharking and drugs;

(iii) evidence from New Jersey indicates that the popularity of the casinos among organized criminals creates a "private club" atmosphere conducive to further criminal agreements. "Complimentaries" such as free rooms, meals, theatre tickets, and nearly unlimited credit granted to known criminals, suggest that the criminals were courted by the casinos.

II. LAW ENFORCEMENT & CONTROL OF THE LEGALIZED GAMBLING MARKET

1. Effectiveness of Illegal Gambling Law Enforcement

> Most gambling enforcement officers and chiefs of police...rated "fighting organized crime" as the most important reason for enforcing gambling laws.[34]

Considerations of legalized gambling must acknowledge the reality of illegal gambling enforcement. At best, rigid enforcement practices reduce and divert illicit activities from one geographical area to another or one form of gambling to another. There does not tend to be a choice between no gambling, illegal or legal, and legalized gambling, plus constant repressed illegal activities--but rather a condition of constant illegal activity (although varying in degree and forms) whether or not legalized gambling exists.

Two significant studies for the Gambling in America Commission examined gambling enforcement in New Jersey and arrived at very different conclusions. Reidel and Thornberry[35] argue that gambling enforcement is possible, and present statistics comparing gambling conviction rates and severity of sentences in Newark, Philadelphia, and Washington, D.C. One of their assertions was that "the argument that favours decriminalization of gambling laws because they are unenforceable is wrong." The New Jersey Supreme Court issued a directive that all sentences in gambling cases be imposed by one judge, and that strict, immediate sentences be handed out in all cases involving syndicated crime. Based on the arrest and conviction statistics, Reidel and Thornberry argued that the strict laws and increased enforcement in New Jersey indicated that it was possible to enforce gambling laws. However, their findings have been criticized because they failed to indicate whether as a result of this "stringent enforcement policy":

1. there had been any general or individual deterrent effect which would reduce future illegal gambling;
2. those "controlling" the illicit gambling marketplace relocated to jurisdictions where a more lenient enforcement policy was adopted;
3. those "controlling" the illicit gambling marketplace reallocated their resources to other forms of illicit or licit activities;
4. the cost of "official protection" (from the effects of the stringent enforcement) had increased.[36]

In agreement with these criticisms, Peter Reuter and the New Jersey Intelligence Bureau argued that there were difficulties with stringent enforcement programmes which were not appreciated. According to Reuter the intensification programme led to the apprehension of a new class of gambling offenders who would not generally be perceived as a serious threat to society. The career criminals avoided arrest by putting minor offenders into the most visible positions within the illegal organization. The less experienced criminals, therefore, tended to make up the statistical increase in arrests for gambling violations.

These critics do not claim that stringent enforcement policies have no impact. The arrests and severe sentences resulting from the New Jersey program may have disrupted the established illicit gambling organizations sufficiently to open them up to more competition and weaken any exploitive monopolistic practices which exist under conditions of stability.

2. The Role of Commissions

Two types of commissions are important to any study of gambling: one type affects the way that society, including policy makers, thinks about gambling; the second type affects the actual regulation of gambling.

A. Commissions as Fact Finders

Commissions, panels and investigatory boards are more than the sum of the members; commissions often become "situated" within the debate, either because of the composition of these working groups or because of their affiliation and mandate. For example, in an essay entitled "Easy Sport: Research and Relevance",[37] Reuter discusses the Commission on the Review of National Policy Toward Gambling, which produced the influential Gambling in America. He argues that whereas a significant portion of the budget went into producing research, most of the Commissioners' time went into attending hearings and that the resulting report was based almost entirely on the hearings and not on the research. He states: "Research results were simply potential ammunition for taking a position."[38] According to Reuter, the Gambling Commission, like other policy advisory commissions, understood the value of research as a source of authority for its policy recommendations and conclusions. When it came to the preparation of its Final Report, however, the Commission chose largely to ignore its own research.[39]

Reuter asserts that the dynamics of this commission would operate in many, if not most, fact-seeking studies. First, the commission was made up largely of lawyers who were more familiar with the concept of "testimony" as a valid source of "evidence" than with analyzing empirical research studies. This is not to suggest that some of the articles in the body of social science research that was generated were not open to criticism, but rather to suggest that generally the research was ignored by the lawyers rather than criticized.

Second, the creation of a commission to investigate a phenomenon is usually a consequence of some existing set of circumstances. The gambling commission was a response to concern about legalized gambling and the growth of federal involvement in enforcement against illegal gambling. These conditions set the tone of the report--nowhere more clearly than in the total rejection of research findings that supported the claim that the previous (U.S. Justice Department) estimates of the amount of illegal gambling were highly inflated:

> If the survey's estimates of a $5 billion illegal handle are taken at face value, and the Justice Department estimates of $29 billion to $39 billion are refuted, it might be construed that the incidence of illegal gambling is only one-sixth to one-eighth of what it is commonly thought to be, and a significant reduction in enforcement activity would follow. Nothing could be further from the Commission's intent.[40]

Reuter observes that this rejection of the survey findings, with no alternative information except the Department of Justice estimate (which Department officials acknowledged to the Commission could not be relied upon) was inconsistent and irrational. There runs through the report an acceptance of a somewhat moralistic view of gambling which put the onus of proving some tangible benefits onto those who supported greater legalization. This position was perhaps valid;

however, it was never made clear that an "official" position producing a neutral, scientific document.

Investigatory commissions may be committed to particular orientations, and may consciously or unconsciously accept or reject research results according to how well the results correspond to a specific perspective. There may not be a single agreed upon reality in an issue such as gambling. There are too many aspects of this area of research that require interpretation based on certain given assumptions to make it possible for there to be only one "true" and final version. Political interests, economic interests and moral attitudes all intertwine.[41]

B. Commissions as Regulatory Agencies

The "use" of commissions in the regulation of casinos will be discussed in the Nevada and New Jersey chapters to illustrate variations in control systems and the consequences of the structure to the decisions that are made. In Nevada and New Jersey the commission serves to legitimate decisions in addition to regulating the agencies. The point was made as early as 1892 by the United States Attorney General:

> The Commission...is, or can be made, of great use...It satisfies the popular clamor for a government supervision...at the same time that the supervision is almost entirely nominal. Further, the older such a commission gets to be, the more inclined it will be found to take the business...view of things.[42]

This gradual co-optation of the regulatory agency, by the organization that is supposedly being subject to the regulation, is not unique to the gambling industry. However, if the casino industry relies on commissions as its main source of regulation these subtle (and not so subtle) shifts in loyalty should be anticipated.

III. NEVADA: A CASE HISTORY

THE TRADITIONAL NORTH AMERICAN CASINO GAMBLING MODEL

Nevada has been the focus of numerous studies of casino gambling and organized crime. The verdicts regarding the Nevada operations tend to be definitive but contradictory. One report may allege extensive corruption and abuse while offering minor recommendations for alleviating the hold of organized criminals over the gambling operations; the next report may judge Nevada to be free from criminal influence. In 1950 the Kefauver Committee Report concluded that:

> As a case history of legalized gambling, Nevada speaks eloquently in the negative.[43]

In 1976, The President's Commission on the Review of the National Policy Toward Gambling stated that:

> Because scrupulously controlled private (gaming) enterprise has proven successful in Nevada, the Commission commends the basic framework to any State wishing to legalize casinos...The Nevada control structures have stood the tests of time and, often, bitter experience; the State's Gaming Policy Committee, Gaming Commission, and Gaming Control Board all seem to operate effectively and to commend themselves as models to other states.[44]

The Gambling in America authors said that "organized crime once was a significant factor in some Nevada casinos" but that "the presence of organized crime in Nevada had become negligible".[45] The report was made public in 1976; before the year was over, evidence of corruption appeared. Within three years, wide-spread corruption was well documented. The forced closing in 1979 of the $100 million Aladdin Hotel occurred because of connections to organized crime. Intercepted conversations between Kansas City organized crime figures and Las Vegas casino operators, which involved instructions on how to skim, and claims that a "major gaming official", (code name Mr. Cleanface) was on the payroll of one of the hotels, threatened the credibility of the Nevada Gaming Control Model.[46] It may be that the Nevada casino industry and organized criminal activities are too entwined to make reform anything other than a symbolic gesture.

1. Historical Background To The Establishment Of Gaming In Nevada

Gambling in the West was the accepted pastime of the gold-miners and trappers who came to town periodically for supplies. As Arnold states:

> Next to mining, gambling was the biggest business and wenching was the favourite pastime. People gambled on where the next fly would light, whether the next female passerby would be blonde or brunette, who could spit a stream of tobacco juice farthest and straightest.[47]

A general acceptance of gambling had been established during over one-hundred years of legal betting. Then, in 1909, the State prohibited all forms of gambling. Gambling remained a criminal offense for two decades,[48] but the new prohibition was held responsible for the loss of immediate revenue, the growth of illegal betting, the development of "protection" rackets, and other forms of political payoffs. Gambling prohibition in Nevada coincided with liquor prohibition. Turner believed that:

> One of the by-products of all this (liquor prohibition) was the creation of a lawlessness in attitude for a whole generation of Americans; and a class of dishonest law enforcement officers and public officeholders such as the nation had never known before.[49]

In 1931, a gambling bill and a liberal divorce bill were passed by the Nevada legislature. The easy marriage/easy divorce laws, coupled with the excitement and glamour of the entertainment casino-hotels that developed over the next ten years, founded the Nevada gambling and entertainment industry. Events through the 1940's cemented the ties between the casinos, the entertainment world, and organized crime. By the mid-1940's, it was common for the bigger casinos to import famous entertainers to attract the crowds and to provide competition for the other entertainment and gambling establishments.

Benjamin "Bugsy" Siegal was the first clearly visible intrusion of eastern organized criminals into the operation of one of the casinos. In the mid-1940's, Siegal built the Flamingo, which was a larger and fancier hotel than the existing competition. Subsequently Cleveland criminals joined with the impressario Wilbur Clark to build the Desert Inn. Capone-connected gangsters built the Stardust Hotel. Through the 1950's and 1960's, political rhetoric still purported to be concerned with excluding organized criminals from gambling operations. The following statement by the Governor of Nevada was echoed by the Governor of New Jersey some twenty years later:

> I agree with any measure necessary to keep hoodlums out of Nevada...We might as well serve notice on underworld characters right now that they are not welcome in Nevada and we aren't going to have them here.[50]

2. Political and Economic Pressures: Nevada Gambling Tax Revenue

The history of gaming in Nevada, and an examination of the gambling industry today, reveals that gambling is not merely recreation or even additional State revenue, but is essential to the economic well-being of the State.[51] This places a significant restraint upon the Gaming Control Board. Because of this, gambling issues are political issues in Nevada, with political careers based on support and advancement of the gambling industry.

The gambling industry provides a large percentage of the tax revenues of the State of Nevada. The Nevada Gaming Commission and the State Gaming Control Board stated in 1982 that gaming in Nevada produced about 45% of the revenue for the State General Fund; that the sales and use tax produced about 40%; and 65% of the sales tax came from the restaurants and bars in the large casinos.[52] In addition to the State taxes, the federal government and local counties, cities and towns have taxes on gaming. The Federal government presently levies a wagering excise tax of 2% of all wagers accepted by bookmakers, based on horse racing and sports events throughout the United States. The principals and their agents must each purchase an annual $500 wagering stamp. The local government levy on gaming varies from jurisdiction to jurisdiction but relates directly to the gaming activity and does not include the income taxes, property taxes and sales taxes that accrue indirectly.

Tables A, B and C record the direct levies paid by the gaming industry in Nevada for the fiscal years 1970 through June 30, 1979.[53]

TABLE A

(Millions of dollars)

Year	Total	Federal	State	County	Other[1]
1970	$58.5	$10.1	$39.3	$6.7	$2.4
1971	62.2	11.2	41.7	6.8	2.5
1972	77.5	11.8	54.9	8.0	2.8
1973	79.3	4.9	62.3	9.1	3.0
1974	92.8	5.0	74.4	10.1	3.3
1975	100.8	4.3	82.5	10.7	3.2
1976	111.0	4.7	91.2	11.5	3.5
1977	122.6	3.2	102.4	12.8	4.1
1978	143.3	3.5	121.7	13.8	4.3
1979	175.2	3.7	149.8	16.5	5.2

TABLE B

(Percent of total paid--dollars in millions)

Year	Total	Federal (percent)	State (percent)	County (percent)	Other[1] (percent)
1970	$58.5	17.3	67.1	11.5	4.1
1971	62.2	18.0	67.0	10.9	4.1
1972	77.5	15.2	70.8	10.3	3.6
1973	79.3	6.2	78.6	11.5	3.7
1974	92.8	5.4	80.2	10.9	3.5
1975	100.8	4.3	81.9	10.6	3.2
1976	111.0	4.2	82.2	10.4	3.2
1977	122.6	2.6	83.6	10.5	3.3
1978	143.3	2.4	84.9	9.7	3.0
1979	175.2	2.1	85.5	9.4	3.0

TABLE C

(Comparisons to 1967--base year 1967 equals 100.0%)

Year	Total (percent)	Federal (percent)	State (percent)	County (percent)	Other[1] (percent)
1970	145.5	112.2	164.4	131.4	109.1
1971	154.7	124.4	174.5	133.3	113.6
1972	192.8	131.1	229.7	156.9	127.3
1973	197.3	54.4	260.7	178.4	136.4
1974	230.8	55.6	311.3	198.0	150.0
1975	250.7	47.8	345.2	209.8	145.5
1976	276.1	52.2	381.6	225.5	159.1
1977	305.0	35.6	428.5	251.0	186.4
1978	356.5	38.9	509.2	270.6	195.5
1979	435.8	41.1	626.8	323.5	236.4

[1] Cities and other local governments.

The following two charts record gross gaming revenue figures for the fiscal year July 1, 1981 to June 30, 1982, and the Total License Fee and Tax Collections for the same period.[54] The first table presents the total dollar intake. Even though this gross figure is not turned over to the state the $2.5 billion figure indicates the amount of money that is circulated by the industry. The second chart shows in dollars the gross revenue collected in license fees and tax contributions.

GROSS NEVADA GAMING REVENUE

JULY 1, 1981 THROUGH JUNE 30, 1982

		Increase/-Decrease	
Counties	Dollars	Dollars	Percent
Clark	$1,736,161,803	$89,807,078	5.5%
Washoe	517,631,941	34,312,455	7.1
Douglas	237,035,387	5,683,879	2.5
Elko	47,117,190	5,386,445	12.9
Carson City	32,463,087	-430,761	-1.3
All Others	28,097,068	561,776	2.0
Total	$2,598,506,475	$135,320,870	5.5%

GAME AND TABLE REVENUE

Clark	$ 967,298,190	$-5,240,162	-0.5%
Washoe	221,788,931	145,919	0.1
Douglas	128,687,896	3,179,815	2.5
Elko	18,323,754	1,259,221	7.4
Carson City	11,987,054	-1,255,203	-9.5
All Others	9,477,932	-1,105,268	-10.4
Total	$1,357,563,755	$-3,015,680	-0.2%

SLOT MACHINE REVENUE

Clark	$ 768,863,612	$95,047,240	14.1%
Washoe	295,843,010	34,166,536	13.1
Douglas	108,347,491	2,504,064	2.4
Elko	28,793,436	4,127,224	16.7
Carson City	20,476,033	824,443	4.2
All Others	18,619,136	1,667,043	9.8
Total	$1,240,942,720	$138,336,550	12.5%

LICENSE FEE AND TAX COLLECTIONS

TOTAL COLLECTIONS
FISCAL YEAR TO DATE
JULY 1, 1981 THROUGH JUNE 30, 1982

		Increase/-Decrease	
Counties	Dollars	Dollars	Percent
Clark	$131,413,040	$13,315,278	11.3%
Washoe	41,561,659	4,222,177	11.3
Douglas	18,794,823	2,167,985	13.0
Elko	3,643,392	721,938	24.7
Carson City	2,384,322	63,107	2.7
All Others	2,689,554	378,362	16.4
Total	$200,486,790	$20,868,847	11.6%

PERCENTAGE FEE COLLECTIONS

Clark	$ 94,268,774	$ 8,743,619	10.2%
Washoe	27,730,268	3,475,876	14.3
Douglas	13,615,848	1,696,688	14.2
Elko	2,279,427	357,861	18.6
Carson City	1,678,593	31,871	1.9
All Others	1,147,661	110,100	10.6
Total	$140,720,571	$14,415,926	11.4%

ENTERTAINMENT TAX COLLECTIONS

Clark	$ 14,470,404	$ 624,117	4.5%
Washoe	3,177,813	185,012	6.2
Douglas	2,041,934	266,327	15.0
Elko	175,199	58,316	49.9
Carson City	69,444	-5,982	-7.9
All Others	88,658	30,924	53.6
Total	$ 20,023,452	$ 1,158,714	6.1%

3. Control of Casinos In Nevada: Regulatory Structure

It is necessary to distinquish between purely theoretical controls as opposed to actual ones. Skolnick & Dombrink state:

> Our studies of legal controls on casinos in Nevada, Atlantic City and England...have proven that rational discussions of casino gambling should not proceed without a straightforward acknowledgement that control often looks better in theory than in practice. The larger the economic interest of the state in casino gambling, the greater is the outside pressure to erode the mechanisms of control.[55]

Nevada casinos are regulated by a tripartite structure:

A. Gaming Commission

The Nevada Gaming Commission makes, licensing decisions, enacts regulations consistent with the Gaming Control Act and initiates judicial proceedings. It has the power to levy taxes and license fees or impose strict conditions upon the use of any license. Any applicant who has been denied a license by the Commission must normally wait a year before applying again. The Commission has five members and oversees the Gaming Board.

B. Gaming Control Board

The State Gaming Control Board has investigatory and enforcement responsibilities. This board conducts background investigations and makes licensing recommendations, enforces gambling statutes and regulations, collects taxes and fees, and polices licensed gambling establishments.[56]

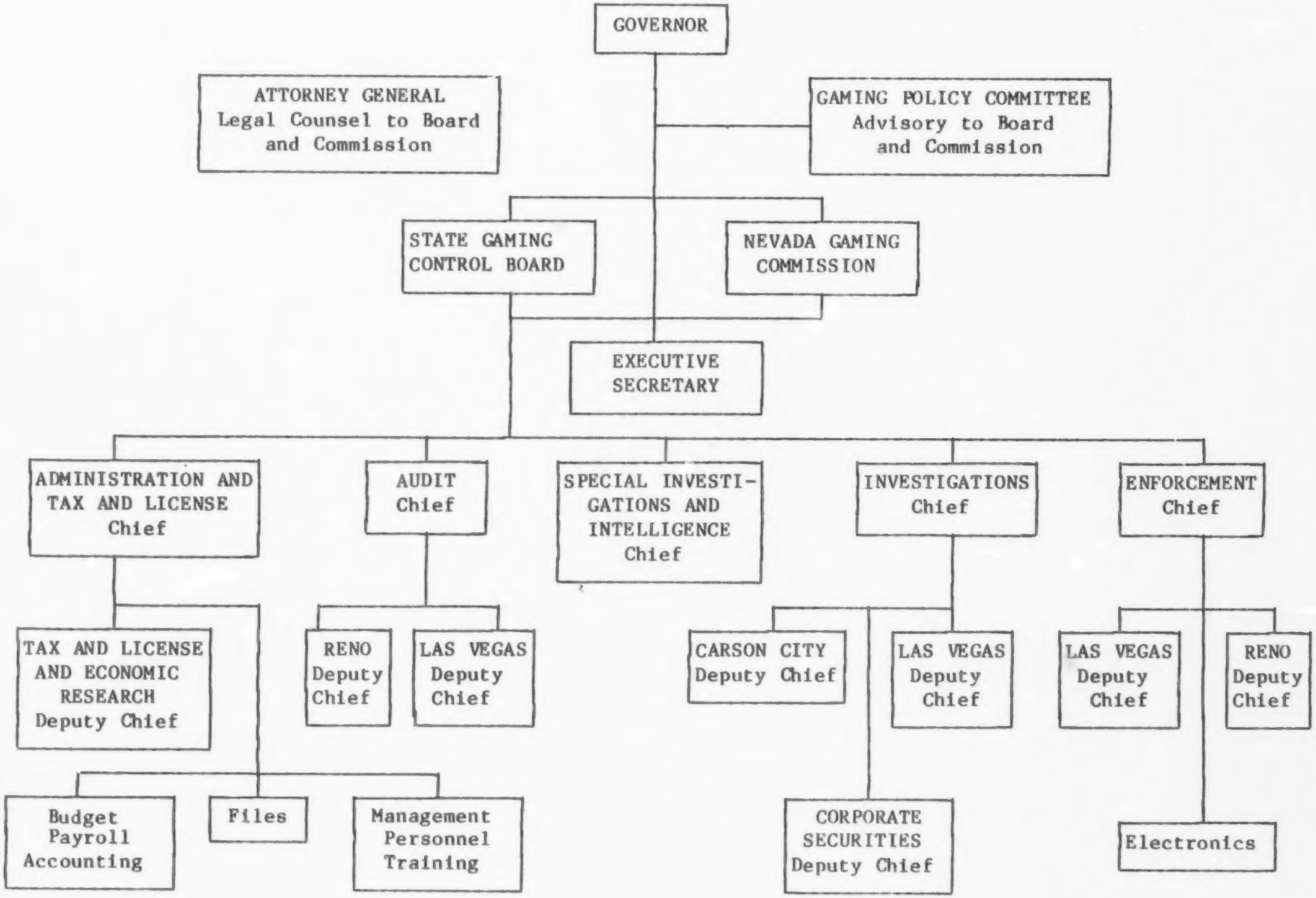
The Board is directed by three full time members appointed by the Governor who maintain a staff of more than 300 employees, including auditors, investigators, enforcement personnel, clerks and secretarial workers. Because the investigation of applicants is believed to prevent or reduce the influx of organized criminals, the Board spends considerable resources on investigative activities.

C. Gaming Policy Committee

The Gaming Policy Committee has advisory power only. It is headed by the Governor and includes one member representing the Commission and one from the Board, two members representing the general public, two members representing the gaming industry, one representing the Nevada Senate and one representing the Nevada Assembly.

The following chart shows the organization of the Gaming Control Agencies and Staff.[57]

ORGANIZATION OF GAMING CONTROL AGENCIES AND STAFF


GOVERNOR
ATTORNEY GENERAL Legal Counsel to Board and Commission
GAMING POLICY COMMITTEE Advisory to Board and Commission
STATE GAMING CONTROL BOARD
NEVADA GAMING COMMISSION
EXECUTIVE SECRETARY
ADMINISTRATION AND TAX AND LICENSE Chief
AUDIT Chief
SPECIAL INVESTIGATIONS AND INTELLIGENCE Chief
INVESTIGATIONS Chief
ENFORCEMENT Chief
TAX AND LICENSE AND ECONOMIC RESEARCH Deputy Chief
RENO Deputy Chief
LAS VEGAS Deputy Chief
CARSON CITY Deputy Chief
LAS VEGAS Deputy Chief
LAS VEGAS Deputy Chief
RENO Deputy Chief
Budget Payroll Accounting
Files
Management Personnel Training
CORPORATE SECURITIES Deputy Chief
Electronics

4. Licensing

A. Who Requires a License

Anyone seeking to "operate, carry on, conduct, maintain or expose for play in the State of Nevada any game or slot machine," or anyone who receives directly or indirectly any compensation for "keeping, running, or carrying on any game, or slot machine" must obtain a gaming license.[58] This includes any creditor who could (as judged by the Commission) exert influence over the gaming establishment because of any indebtedness of the licensee. When publicly traded corporations entered the casino market their officers, directors, employees or shareholders who could "exercise considerable influence or control" also had to be licensed.

B. Who Qualifies For A Gaming License

The Nevada law states that:

> 1. Any person who the commission determines is qualified to receive a license or be found suitable under the provisions of this chapter, having due consideration for the proper protection of the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and the declared policy of this state, may be issued a state gaming license or found suitable. The burden of proving his qualification to receive any license or be found suitable is on the applicant.
>
> 2. An application to receive a license or be found suitable shall not be granted unless the commission is satisfied that the applicant is:
>
> (a) A person of good character, honesty and integrity;

(b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this state or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and

(c) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the state.

3. A license to operate a gaming establishment shall not be granted unless the applicant has satisfied the commission that:

He has adequate business probity, competence and experience in gaming or generally; and

(b) The proposed financing of the entire operation is:

1) Adequate for the nature of the proposed operation; and

2) From a suitable source.

Any lender or other source of money or credit which the commission finds does not meet the standards set forth in subsection 2 may be deemed unsuitable.

4. An application to receive a license or be found suitable constitutes a request for a determination of the applicant's general character, integrity, and ability to participate or engage in, or be associated with gaming. Any written or oral statement made in the course of an official proceeding of the board or commission by any member thereof or any witness testifying under oath which is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

5. The commission may in its discretion grant a license to a corporation which has complied with the provisions of NRS 463.490 to 463,530, inclusive.

C. Types of Gaming Licenses

Four types of State gaming licenses are issued:

Restricted - Issued when the operation consists of 15 or less slot machines and no other gaming. It is issued annually and is renewed quarterly.

Nonrestricted - Issued when the operation consists of 16 or more slot machines only, or when there are one or more games or tables, with or without slot machines. This also is issued annually and renewed quarterly.

Manufacturers and/or Distributors - Issued to manufacturers, sellers, and distributors of gaming devices, equipment and materials. It is issued for one year.

Slot Machine Operators - Issued to individuals or businesses who place slot machines in licensed restricted or nonrestricted locations on a lease, rental or percentage agreement. This license is renewable quarterly.[59]

D. Taxation Requirements

Gaming in Nevada is taxed at the county, state and federal levels. The main sources of taxation revenue listed below do not include income taxes, property taxes or sales taxes:[60]

i) Quarterly County License Fees (NRS 463.390)

- Card games (stud and draw poker, bridge, whist, solo and panguingui); $25 monthly for each table, payable quarterly in advance.

- Other games such as twenty-one, craps, roulette, excluding slot machines; $50 monthly each game, payable quarterly in advance.

- Slot machines; $10 monthly for each machine, payable quarterly in advance.

ii) Quarterly Percentage Fees (NRS 463.370)

This tax is based on gross gaming revenue. The current rate is:

- 3 percent of all gross gaming revenue up to $150,000 per quarter, plus;

- 4 percent of all gross gaming revenue above $150,000, but less than $400,000 each quarter, plus;

- 5¾ percent of all gross gaming revenue each quarter above $400,000.

iii) Annual State License Fee (NRS 463.380)

Based on the number of games operated by an establishment, a State License Fee is charged:

1 game	$100	
2 games	200	
3 games	400	
4 games	750	
5 games	1,750	
6 or 7 games	3,000	
8 to 10 games	6,000	
11 to 16 games	1,000	for each game
17 or more games	16,000	plus $200 for each game in excess of 16

Originally the Annual State License Fees went into the State General Fund for use by the State; now, the fees are divided equally among the 17 counties, after administrative costs have been deducted.

iv) Quarterly Slot Machine License Fees (NRS 463.373 and NRS 463.375)

There is a quarterly fee based on the number of slot machines in operation.

- not more than 15 slot machines and no other games: $35 quarterly in advance for each machine (in lieu of percentage tax for these licensees);

- 16 or more slot machines or slot machines with games: $20 quarterly in advance for each machine.

v) Quarterly License Fees on Games (NRS 463.383)

1 game	$12.50	
2 games	25.00	
3 games	50.00	
4 games	93.75	
5 games	218.75	
6 or 7 games	375.00	
8 to 10 games	750.00	
11 to 16 games	125.00	for each game from 1 through 16, inclusive
17 to 26 games	2,000.00	plus $1,200 for each game 17 through 26
27 to 35 games	14,000.00	plus $700 for each game 27 through 35
36 games and over	20,000.00	plus $25 for each game over 35

vi) Casino Entertainment Tax (NRS 463.401)

A 10% tax applies to all sales of merchandise, food, beverages and admissions charges for entertainment except in gaming establishments having 50 or less slot machines and/or not more than three games.

vii) Federal Tax Stamp on Slot Machines (NRS 463.385)

Between 1972 and July 1, 1980 all slot machine licensees had to pay $250 per machine to Internal Revenue for a Federal tax stamp. (Nevada would keep 80% or $200; Federal Government took 2% or $50). On July 1, 1980, the Federal tax was repealed. These funds are dedicated for specified education funds requirements.

viii) Race Wire Service License Fee (NRS 463.450)

The dissemination of horse racing information (race wire services) were placed under the control of the State in 1949. A license fee of $10 per day for each race covered by this service is charged. This service is essential for OTB and I.T.B. operations.

ix) Pari-Mutual Wagering (NRS 464 and 466)

Pari-mutual events are taxed based on the total wagers at a certain percentage, i.e., Jai Alai is taxed at 3% of total wagers.

5. Criticism of The Nevada Model

Three structural and regulatory deficiencies appear within the Nevada model.

A. Discretionary Power of the Commission

It is argued by supporters of the Nevada model that the Commission requires vast discretionary power in order to combat corruption and organized crime. Attempts to restrict this power have traditionally been unsuccessful in Nevada.

(i) The Rosenthal Case

The Board advised the Commission that Rosenthal's application for a license should be denied, based on a previous conviction for conspiracy to bribe an amateur athlete and other "unsuitable" violations. The Commission denied the license and Rosenthal appealed to the Nevada District Court, which reversed the Commission decision on the basis that he had been denied procedural due process as guaranteed by the Fourteenth Amendment to the U.S. Constitution.

The State of Nevada and the Gaming Commission appealed to the Nevada Supreme Court, which held that :

> We view gaming (as) a matter reserved to the states within the meaning of the Tenth Amendment to the United States Constitution. Within this context we find no room for federally protected constitutional rights. This distinctively state problem is to be governed, controlled and regulated by the state legislature and to the extent the legislature decrees, by the Nevada Constitution. It is apparent that if we were to recognize federal protections of

> this wholly privileged state enterprise, necessary state control would be substantially diminished and federal intrusion invited.[61]

On the basis of Rosenthal, the only way an aggrieved applicant may seek judicial review is to challenge the licensing statute as being unconstitutional--not by questioning the adverse decision of the commission. In support of the Rosenthal decision, Shaffer states:

> While inequalities to the individual may occur unchecked, any individual interests are far outweighed by the public interest involved. As Rosenthal exemplifies, the need for the Nevada Gaming Commission to have absolute discretionary power in licensure is essential in order to effectively prevent criminal infiltration into an area with a history of vulnerability to criminal elements. The use of licensing to control criminal intrusion not only exists at the licensure stage, but continues once a gaming license has been granted.[62]

(ii) List of Excluded Persons

The "List of Excluded Persons" is a provision which the Commission can exclude or eject persons known for dealing with a criminal syndicate. Once a name is on this list, all gaming licensees must bar the individual. This list was intended to protect the credibility of the club and keep the industry "clean". In reality, until successfully fought in New Jersey, the "unsavory" persons who were being blacklisted were not criminals but were successful card counters who were costing the casinos more than they wished to afford.[63]

(iii) Appointment of Interim Supervisors

The Nevada Commission also decides which gaming establishments may remain open pending judicial review of a Commission decision. The Commission can petition the district court for appointment of a supervisor. The Commission decides if a supervisor is to be chosen, chooses the individual and awaits the judicial review of the Commission's decision, which is limited to the Commission's record of the hearing.

B. Relationship Between the Board and the Commission

A division in responsibility exists between the Board and the Commission. This separation of powers was designed in part to ensure against the easy corruption of either agency. However, the separation is more theoretical than real. The Board and the Commission are distinct units, but some blurring occurs:

- the Commission issues regulations which are drawn up and enforced by the Board;
- the Board and Commission share the same legal counsel;
- members from each branch meet to discuss issues and individuals;
- the Board has never made a positive recommendation that was overturned by the Commission. However, the Commission has rejected negative recommendations by the Board.

Perhaps the greatest difficulty is the ambiguity of the relationship between the two sections. As Skolnick states:

> It is one thing clearly to combine investigation and judging in an administrative agency. It is another clearly to separate these functions. But the present Nevada

> system is a will-of-the-wisp, sometimes combining, sometimes separating. All too often the process ends up mainly confusing--to the board and its agents, the commission, and the applicants.[64]

The emphasis is on control while encouraging the prosperity of the industry. This is in keeping with a reliance on licensing provisions as the main gaming control method in Nevada[65] rather than continual intensive supervision of the gaming establishments. The discretionary latitude of the Commission has been acknowledged and the potential for corruption recognized. Licenses may therefore in some instances be obtained to the detriment of the industry. Even where corruption is not strictly an issue, the political power or financial status of an applicant may sway the Commission. The Nevada Supreme Court decided against Rosenthal; however, as an indication of the calibre and prestige of the lawyers that the casino applicants can hire, it is noted that Rosenthal was represented by Erwin Griswold --former Dean of Harvard Law School and former Solicitor General of the United States.

C. Conflict of Interest

(i) Post Employment Restrictions

Members of the casino Commission are forbidden to have any pecuniary interests in common with holders of gaming licenses. However, there are no limits on post-employment opportunities. This is because so many of the jobs in the State of Nevada are in some way related to casino operations. It is argued that the four year restriction in operation in New Jersey might mean that capable people would not accept appointments on the Gaming Commission. Shaffer suggests a limited restriction system which would prohibit members for two years from employment with parties who came before the Board or Commission during that member's tenure, and then only if that appearance was regarding a non-routine matter.[66]

As Skolnick stated in House of Cards:

> In Nevada...not only do agency personnel consciously use their appointments as stepping stones to more lucrative jobs in the regulated industry, the agency in effect encourages them to do so.[67]

(ii) Industry Capture of Its Regulators

The issue of future jobs is highly problematic in that it builds up alliances between the Commission and the gambling industry it regulates. The nature of the interaction between these two agencies encourages the Commission to move away from being a strictly neutral regulator and become instead, a "manager" for the industry. The exchange of personnel between casino and government regulatory agencies, the frequency of personal contact and the possible anticipation of returning again to private employment, result in a building up of feelings of comraderie between the two sides. This is not unique to gambling commissions, but is true of most long standing regulatory agencies. It is made even more inevitable if the state officials hold poorly paid positions in an area where the same skills in private business command large salaries.

Many writers suggest that Nevada Commission salaries ought to be made competitive with private casino salaries.[68] A document entitled Regulation of Gaming published by the State of Nevada compared the salaries between the New Jersey Gaming Control Board and the Nevada Gaming Control Board.

TITLE	N. JERSEY GAMING CONTROL BOARD (1/79)	NEVADA GAMING CONTROL BOARD (7/79)
Chairman of the Board	60,000	40,000
Division Chief	42,479	30,000
Division Deputy Chief	36,926	24,500
Senior Agent	27,559	22,750
Agent II	23,806	21,000
Agent I	20,563	19,500

Even within Nevada the auditors of the Nevada Gaming Control Board were paid lower salaries than the Nevada Public Service Commission Audit staff.[69] Therefore, the gaming Commission of Nevada failed to be competitive with any of the main alternative sources of employment--i.e. gaming salaries in New Jersey, Nevada, or comparable positions in Nevada outside of the gaming field.

The Commission members can choose to stay underpaid and committed to regulatory control, quit and take better paying employment with the casinos, remain with the Commission but identify closely with the gambling industry, or stay officially with the Commission but be put on the payroll of the casinos. As Skolnick and Dombrink state:

> Although the Board may attempt to enforce gaming regulations, the potentially sensitive Gaming Commission can choose to ignore Board recommendations...Commission votes to override Board recommended license denials or revocations prompted criticism that the Commission was political, weak and unsupportive of the board. The wiretap transcripts of conversations between Kansas City organized crime figures and Las Vegas casino operators hinted at a more sinister situation: gaming control officials had a price and were open to influence, particularly through friendship ties.[70]

IV. NEW JERSEY

BACKGROUND

The stated purpose of the New Jersey casino enterprise is significantly different from that of Nevada. Unlike what Rose refers to as the "free enterprise" orientation with its emphasis on licensing, regular audits and investigations,[71] New Jersey (and Puerto Rico) focus on "tourist area revitalization" as the impetus for the casino industry. The New Jersey statute states that casino gambling is intended to improve the general welfare, health and prosperity of the state and therefore same as a unique tool of urban redevelopment. The legislation attempts to insure this role by requiring that casinos in New Jersey be restricted to Atlantic City and be housed within a hotel. The 'hotel' requirement is designed to:

> assure that the existing nature and tone of the hospitality industry in Atlantic City is preserved and that the casino rooms licensed ...are always offered and maintained as an integral element of such hospitality facilities, rather than as the industry unto themselves that they have become in other jurisdictions.[72]

At the request of the Governor, the Attorney General and the Treasurer, a staff policy group was formed to study the casino industry elsewhere and to "identify, describe and seek solutions to problems" that existed in those jurisdictions. The policy group had the assistance of eight working groups composed of members of the Division of Law, Criminal Justice and State Police. It is significant that this group identified, at the onset, the network of potential problems that a casino industry can create. They developed regulatory schemes to "capture and encourage...the best aspects of casino gambling around the world." However, the casino industry in Atlantic City presently includes many of the failures and shortcomings identified by the policy group. The critical decision to be made is whether some of the negative consequences are in fact immune to regulation and control and are in fact direct, inherent, products of the casino industry.

The policy group acknowledged at least six issues that their comprehensive regulatory schemes would have to resolve:

1. an increase in crime--street crime plus organized crime;
2. social dislocation--elderly and minorities;
3. consumer protection;
4. unwise development;
5. negative environmental results;
6. inequitable strains on public resources (protection of State revenue).

The aim was to achieve a permanent revitalization of the tourist and convention industries with few detrimental side-effects. As the report states:

> The interests of the State in the success of casino gambling are not coterminous with the interests of the entrepreneur. While the latter measures a net return or investment against the degree of risk, the State must measure social and economic benefits against offsetting social, economic and environmental costs.[73]

This report made several critical recommendations which were subsequently either modified or abandoned in the interests of greater freedom for the casino industry. After approximately five full years of operation, it is becoming obvious that there was merit to these considerations. The Interim Report (1977) of the policy group recommended:

1. against conditional (or temporary) licenses;[74]
2. the exclusion or "blacklisting" of persons with criminal backgrounds and associations;[75]
3. that credit should be restricted to cheque cashing with deposit required two business days after drawing;[76]
4. a prohibition on tipping.

1. Control of Casinos In New Jersey: The Regulatory Structure

The structure of control in New Jersey consists of two government agencies: the Casino Control Commission (The Commission); and the Division of Gaming Enforcement (The Division).

A. The Casino Control Commission

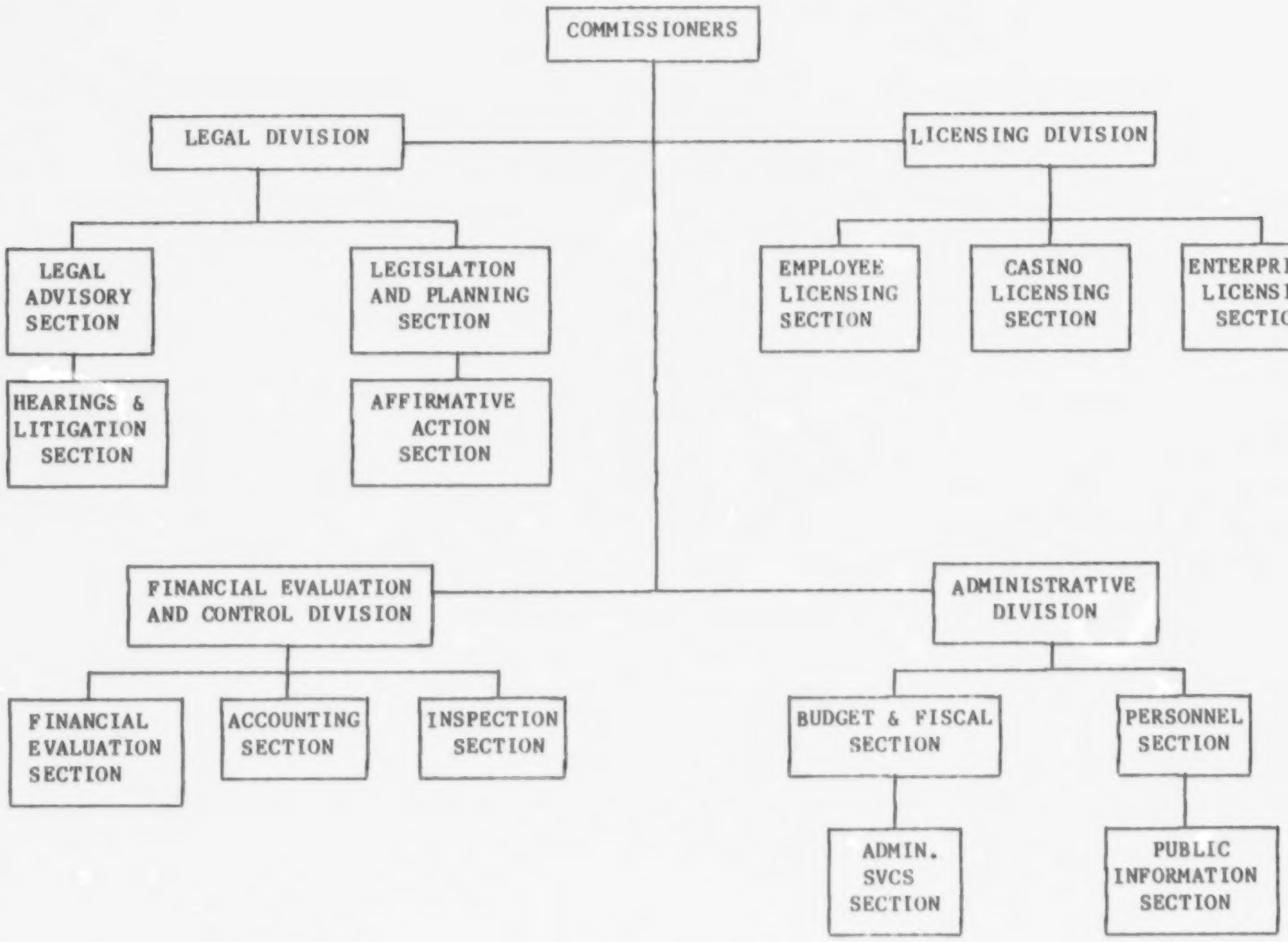
The Commission is authorized to hear and decide applications for licenses, to conduct hearings pertaining to civil violations of the act, to collect all license fees and taxes, and to police the operation of casinos. This panel is made up of five members who must be citizens of the United States and residents of New Jersey. No member may hold an elective or appointive office in federal, state or local government and no more than three members may be of the same political affiliation.[77]

To control the biasing effect of Commission members desiring future employment within the gaming industry, the statute specified that:

> no member of the Commission may hold any direct or indirect interest in, or be employed by, any applicant or by any person licensed by or registered with the Commission for a period of four years commencing on the date his membership on the Commission terminates.[78]

The following chart depicts four divisions within the Commission: Legal, Financial, Licensing and Administrative.[79]

NEW JERSEY CASINO CONTROL COMMISSION
TABLE OF ORGANIZATION


COMMISSIONERS
LEGAL DIVISION
LICENSING DIVISION
LEGAL ADVISORY SECTION
LEGISLATION AND PLANNING SECTION
EMPLOYEE LICENSING SECTION
CASINO LICENSING SECTION
ENTERPRISE LICENSING SECTION
HEARINGS & LITIGATION SECTION
AFFIRMATIVE ACTION SECTION
FINANCIAL EVALUATION AND CONTROL DIVISION
ADMINISTRATIVE DIVISION
FINANCIAL EVALUATION SECTION
ACCOUNTING SECTION
INSPECTION SECTION
BUDGET & FISCAL SECTION
PERSONNEL SECTION
ADMIN. SVCS SECTION
PUBLIC INFORMATION SECTION

B. The Division of Gaming Enforcement

The Division is actually an agency of the Office of the Attorney General and the Director of the Division is an Assistant Attorney General. The Division investigates applicants for licenses and conducts extensive investigations of the applicants (at the applicants' expense) for licenses. The Division also reviews casino operations through observation and audits of the operations. In theory, the New Jersey system emphasizes the importance of a bifurcated structure of control with a clear separation between the group which does the investigations (the Division) and the group which makes decisions based on the results (the Commission). The intent behind this separation was to make it harder for casino influence to effect the decisions of the regulatory agencies. The following chart shows the branches or organization within the Division of Gaming Enforcement.

2. Licensing

A. Who Requires a License

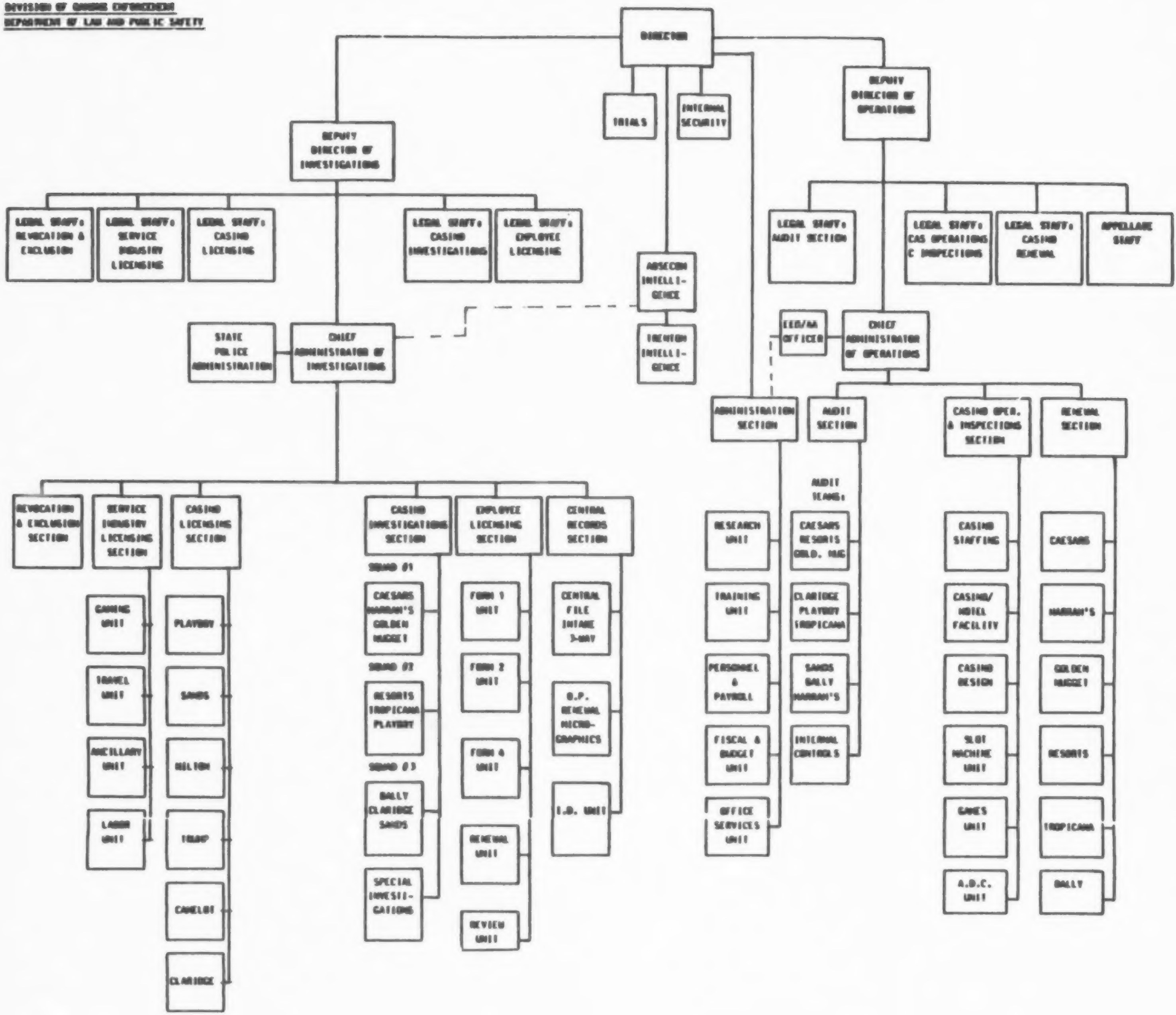
The regulations specify that owners, employees, corporations, sellers and distributors of gambling equipment must obtain gaming licenses. The owner must prove that he:

- owns an approved hotel;
- has the financial means and business competence torun a casino;
- has a "good reputation for honesty and integrity."

B. Licensing Procedure

The licensing investigation is extremely costly (often close to one million dollars to apply and perhaps fifty

DIVISION OF GAMING ENFORCEMENT
DEPARTMENT OF LAW AND PUBLIC SAFETY


DIRECTOR
TRIALS
INTERNAL SECURITY
DEPUTY DIRECTOR OF INVESTIGATIONS
DEPUTY DIRECTOR OF OPERATIONS
LEGAL STAFF: REVOCATION & EXCLUSION
LEGAL STAFF: SERVICE INDUSTRY LICENSING
LEGAL STAFF: CASINO LICENSING
LEGAL STAFF: CASINO INVESTIGATIONS
LEGAL STAFF: EMPLOYEE LICENSING
ABSECON INTELLI-GENCE
TRENTON INTELLI-GENCE
LEGAL STAFF: AUDIT SECTION
LEGAL STAFF: CAS OPERATIONS C INSPECTIONS
LEGAL STAFF: CASINO RENEWAL
APPELLATE STAFF
STATE POLICE ADMINISTRATION
CHIEF ADMINISTRATOR OF INVESTIGATIONS
EEO/AA OFFICER
CHIEF ADMINISTRATOR OF OPERATIONS
ADMINISTRATION SECTION
AUDIT SECTION
CASINO OPER. & INSPECTIONS SECTION
RENEWAL SECTION
REVOCATION & EXCLUSION SECTION
SERVICE INDUSTRY LICENSING SECTION
CASINO LICENSING SECTION
CASINO INVESTIGATIONS SECTION
EMPLOYEE LICENSING SECTION
CENTRAL RECORDS SECTION
GAMING UNIT
TRAVEL UNIT
ANCILLARY UNIT
LABOR UNIT
PLAYBOY
SANDS
HILTON
TRUMP
CAMELOT
CLARIDGE
SQUAD #1
CAESARS HARRAH'S GOLDEN NUGGET
SQUAD #2
RESORTS TROPICANA PLAYBOY
SQUAD #3
BALLY CLARIDGE SANDS
SPECIAL INVESTI-GATIONS
FORM 1 UNIT
FORM 2 UNIT
FORM 4 UNIT
RENEWAL UNIT
REVIEW UNIT
CENTRAL FILE INTAKE 3-WAY
D.P. RENEWAL MICRO-GRAPHICS
I.D. UNIT
RESEARCH UNIT
TRAINING UNIT
PERSONNEL & PAYROLL
FISCAL & BUDGET UNIT
OFFICE SERVICES UNIT
AUDIT TEAMS:
CAESARS RESORTS GOLD. NUG
CLARIDGE PLAYBOY TROPICANA
SANDS BALLY HARRAH'S
INTERNAL CONTROLS
CASINO STAFFING
CASINO/ HOTEL FACILITY
CASINO DESIGN
SLOT MACHINE UNIT
GAMES UNIT
A.D.C. UNIT
CAESARS
HARRAH'S
GOLDEN NUGGET
RESORTS
TROPICANA
BALLY

million dollars to open before any returns are gained). This expense is born by the applicant whether or not the application is successful since by the time a decision on the application is made, the land has been obtained and in some cases the casino is operating under a temporary license. Detailed information related to family, habits, character, criminal arrest record, business activities, financial affairs and business, professional, and personal associates for a ten-year period preceding the filing for the application must be provided. Once granted, the license is treated as a revocable privilege with no property rights attached.

Throughout the operation of the casino, licensees and registrants have a "continuing duty to provide any assistance or information required by the Commission or Division, and to co-operate in any inquiry or investigation conducted by the Division or the Commission."[80] The casino operator must keep proper financial records that will be available for inspection by the Commission. Failure to satisfy the Commission in terms of internal financial investigations, or the Division in terms of inspection of premises or inspection of persons associated with the operation, could result in revocation of the license, at which time the Commission may appoint a "conservator" (similar to Nevada's "supervisor")[81] to run the casino while an investigation is undertaken.

C. Size of the Atlantic City Casino Industry

As of the end of 1982, there were 9 operating casinos in Atlantic City. The following tables indicate the degree of investment, extent of hiring, and a limited estimate of the tourist population based on bus statistics.

The first two tables reveal the number of table games and slot machines which each casino provides and the third table presents statistics on the fixed asset investment in Atlantic City per casino from 1978 to 1982.

THE NEW JERSEY CASINO INDUSTRY
TABLE GAMES AND SLOT MACHINES IN OPERATION
AS OF DECEMBER 31, 1982 AND 1981*

	Resorts		Caesars		Bally		Sands		Harrah's	
	1982	1981	1982	1981	1982	1981	1982	1981	1982	1981
Table Games:										
Blackjack	84	84	63	65	90	88	59	48	68	80
Craps	20	20	26	22	22	22	16	14	18	18
Roulette	11	10	12	12	12	12	10	8	12	12
Big Six	6	6	2	4	4	4	2	2	3	4
Baccarat	3	3	4	3	3	3	2	2	2	2
Total Table Games	124	123	108	107	131	120	90	84	103	116
Slot Machines:										
$.05 slot machines	135	93	70	100	136	123	64	68	66	59
$.25 slot machines	1,071	1,160	919	758	1,133	1,136	622	623	724	643
$1.00 slot machines	309	316	105	182	130	143	56	44	228	208
Other slot machines[1]	234	180	270	318	208	198	308	145	287	220
Total Slot Machines	1,749	1,749	1,364	1,358	1,607	1,600	1,050	990	1,305	1,130
Casino Square Footage	60,000	60,000	49,061	48,045	60,000	60,000	38,336	32,236	44,698	44,090

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[1] Includes $.10 and $.50 slot machines and all denominations of progressive, video poker, video blackjack, video dice and slot machines. (Video dice and big bertha slot machines were introduced during 1982.)

* New Jersey, Casino Control Commission Annual Report, December 31, 1982, pp. 16-17

THE NEW JERSEY CASINO INDUSTRY
TABLE GAMES AND SLOT MACHINES IN OPERATION
AS OF DECEMBER 31, 1982 AND 1981*

	Golden Nugget		Playboy		Claridge		Tropicana		Total Industry	
	1982	1981	1982	1981	1982	1981	1982	1981	1982	1981
Table Games:										
Blackjack	61	62	76	81	77	48	76	76	621	632
Craps	18	14	14	18	12	13	18	18	164	159
Roulette	10	12	12	16	8	8	15	16	102	106
Big Six	4	4	3	3	2	2	4	4	30	33
Baccarat	2	2	3	3	2	2	3	2	24	22
Total Table Games	95	94	108	121	68	73	116	116	941	952
Slot Machines:										
$.05 slot machines	63	62	74	68	81	65	76	70	765	708
$.25 slot machines	810	828	1,070	840	623	589	1,097	903	8,069	7,480
$1.00 slot machines	135	177	62	109	63	76	105	120	1,193	1,375
Other slot machines[1]	188	139	228	186	87	120	224	296	2,034	1,802
Total Slot Machines	1,196	1,206	1,434	1,203	854	850	1,502	1,389	12,061	11,365
Casino Square Footage	40,662	40,662	52,313	51,823	29,950	28,982	50,795	46,305	425,815	412,143

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[1] Includes $.10 and $.50 slot machines and all denominations of progressive, video poker, video blackjack, video dice and slot machines. (Video dice and big bertha slot machines were introduced during 1982.)

* New Jersey, Casino Control Commission Annual Report, December 31, 1982, pp. 16-17

THE NEW JERSEY CASINO INDUSTRY
FIXED ASSET INVESTMENT IN ATLANTIC CITY[1]
AS OF DECEMBER 31,

	1978	1979	1980	1981	1982
Resorts[2]	$52,568,737	$ 94,257,182	$135,836,173	$156,193,995	$185,495,159
Ceasars	—	101,931,091	114,093,205	120,018,503	126,982,727
Bally	—	274,760,570	307,531,387	308,999,736	313,912,772
Sands	—	—	71,113,214	76,735,638	90,273,706
Harrah's	—	—	102,027,208	125,922,771	141,356,055
Golden Nugget	—	—	127,553,622	136,899,675	176,833,115
Playboy	—	—	—	142,031,843	147,967,767
Claridge	—	—	—	142,445,509	144,955,646
Tropicana[2]	—	—	—	291,921,745	286,521,398
TOTAL	$52,568,737	$470,948,843	$858,154,809	$1,501,169,415	$1,614,298,345

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[1] The fixed asset investment represents property and equipment before accumulated depreciation as reported by each casino licensee.

[2] For the fiscal year ended on or about December 31. Table taken from the New Jersey Casino Control Commission Annual Report, December 31, 1982, p.19.

There is no accurate count of the number of tourists and local residents who use the casino facilities daily. The following tables record the number of buses and number of bus passengers into the casinos in 1981 and 1982; the number of hotel rooms provided by the casino industry (no available record of the average vacancy rate); the size of convention space within the casino industry, again, no available record of the booking of this space. The final table in this section indicates the extent of employment offered by each of the nine separate casinos.

THE NEW JERSEY CASINO INDUSTRY BUS STATISTICS FOR THE YEARS 1982 and 1981

	Number of Buses		Number of Passengers	
	1982	1981[a]	1982	1981[a]
January	16,341	11,837	404,707	386,939
February	21,570	13,590	610,876	494,552
March	25,283	12,772	758,641	463,058
April	23,464	11,502	685,313	342,577
May	25,584	14,375	789,541	447,971
June	28,126	17,735	882,195	609,210
July	28,562	16,211	866,990	509,583
August	30,770	18,979	964,815	557,870
September	30,339	19,398	941,086	576,756
October	31,605	20,274	1,024,440	589,765
November	29,296	19,719	927,493	554,683
December	20,947	15,960	631,445	365,562
Total	311,887	192,352	9,487,542	5,898,526

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[a] As of April 14, 1981, seven casinos were in operation.
As of July 23, 1981, eight casinos were in operation.
As of November 26, 1981, nine casinos were in operation.

THE NEW JERSEY CASINO INDUSTRY HOTEL ROOMS AS OF DECEMBER 31,

1978	1979	1980	1981	1982
724	1,572	3,257	4,781	4,770

THE NEW JERSEY CASINO INDUSTRY CONVENTION SPACE IN SQUARE FEET AS OF DECEMBER 31,

1978	1979	1980	1981	1982
50,125	96,300	178,863	268,651	266,561

THE NEW JERSEY CASINO INDUSTRY
HOTEL ROOMS
AS OF DECEMBER 31,

	1978	1979	1980	1981	1982
Resorts[1]	3,226	4,354	4,441	3,858	3,938
Caesars	___	3,863	3,955	3,251	3,198
Bally	___	3,084	3,695	3,486	3,569
Sands	___	___	2,594	2,430	2,532
Harrah's	___	___	3,516	3,185	3,361
Golden Nugget	___	___	2,950	2,942	3,058
Playboy	___	___	___	3,019	3,260
Claridge	___	___	___	2,202	2,148
Tropicana*	___	___	___	3,469	3,029
TOTAL	3,226	11,301	21,151	27,842	28,093

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[1] For the fiscal year ended on or about December 31. Taken from the New Jersey Casino Control Commission, Annual Report, December 31, 1982, p.13

3. Weaknesses in New Jersey Casino Model

A. Discretionary Powers of the Commission

(i) Temporary Casino Permits

Article 6A of the New Jersey statute provides that the Commission may grant a temporary casino permit upon formal request by the casino license applicant if among other conditions:

> the temporary casino permit will best serve the interests of the public with particular reference to the policies and purposes enumerated in Section 1 of this amendatory and supplementary act.[82]

These permits, which may be issued prior to the completion of the investigation, are usually valid for nine months and may be renewed for an additional three month period but not beyond the twelfth month. (This policy constitutes a rejection of the recommendation by the Interim Policy Group. It also grants greater freedom than Nevada does. Nevada has a system of granting temporary licenses but only to establishments that already held operational licenses, not to new unapproved casino operations.) As W.T. O'Donnell stated:

> New Jersey...has apparently assigned a high priority to the establishment of the State's gaming industry and realizes that temporary casino permits spell a quicker revitalization of the Atlantic City area.[83]

Section 1 of the Casino Control Act emphasizes that the resort industry represents a critically important and valuble asset in the continued viability and economic strength of the tourist, convention and resort industry of the State of New Jersey".[84] The focus is clearly on the advancement of the resort industry, which tends to militate against the attempt to control and regulate the industry. As Mr. John Degnan, former Attorney General of New Jersey, argued in 1980, the granting of some of the licenses represented a tilt toward the concept of economic development of Atlantic City, rather than toward crime control. A New York Times editorial stated:

> When Attorney General John Degman informed the Casino Control Commission that, according to law, Resorts

> International was unqualified for a permanent license, he was simply ignored.[85]

The argument of the casino operators is that the investigation by the Gaming Enforcement Division is so time consuming that it is more practical and efficient to have the casinos in operation while this is being completed. Once a casino is operating it is advantageous for the State to grant the permanent license and demand minor "conditions" rather than close a viable business. The granting of a temporary casino permit, therefore, often dictates final approval of the casino. Temporary licenses have been obtained by casinos such as Bally's Park Place even when derogatory information was available.

(ii) Division Recommendations Versus Commission Decisions

In some instances the Gaming Enforcement Division has recommended against the granting of a license only to have the Casino Control Commission decide in the casino's favour. Casinos licensed against the Gaming Enforcement Division recommendations include Resorts International, Claridge and Bally's Park Place. The Bally case may serve as an instructive example of the practice versus the theory of casino control. The sequence as well as the circumstances highlight several of the laxities in the New Jersey system.

The Bally case illustrated the malfunctioning relationship between the two separate regulatory branches--the Division and the Commission. In this case the Division recommended that Bally's Park Place not be granted a license, while the Commission concluded that the fulfillment of certain conditions would satisfy the requirements. Given the evidence against all of the principals in this case, and the history of the Bally enterprise in Nevada, in Australia and in Britain, the granting of a permanent license in New Jersey must be explained in terms other than a firmly based faith in the integrity of the corporation. In February 1978, Bally applied for a casino license in New Jersey. Before the license was granted, and while the investigation into Bally was in process, a temporary casino permit and a certificate of operation were issued. Investigation revealed that the Nevada Gaming Commission had found the Bally Distributing Company guilty of dealings with known organized casino figures (i.e., Jack Rooklyn, Irving Kaye, Gerardo Catena, Sam W. Klein) and had failed to fully dissociate itself from these connections even when it was made a condition of the license.

The Bally organization was also denounced in an Australian report by Mr. Justice Moffitt in 1973. Commenting on rumours of organized crime infiltration into certain Australian gaming clubs, Moffitt concluded that:

> there is a real and very material risk that the Bally operation, if continued here (Australia) will in time be a vehicle in which, and along side which, organized crime will infiltrate or further infiltrate club operations in N.S.W. in some way...and further...that as a mere statement of the risk, it is too great to have the Bally organization trading here at all.[86]

The New Jersey Gaming Enforcement Division described payoffs, bribes, affiliations with organized criminals and illegal casino activities. The final report of the Division listed six reasons why Bally's

Park Place was unqualified for licensure as a casino licensee, Bally was unqualified for licensure as a casino service industry licensee, William T. O'Donnell was unqualified for licensure as a casino key employee, and Alexander R.A. Wilms was unqualified for licensure as a casino key employee (later the Division agreed to waive Mr. Wilms as a person required to qualify). The exhaustive and enormously expensive investigation therefore concluded negatively for Bally on every point. However, the Commissioners chose to disregard the findings of the investigation by the Division. Even while acknowledging that "given the virtual identity between O'Donnell and Bally Manufacturing for nearly 20 years, any business contact between them carries an especial significance and the potential for real influence over company policy," they decided that O'Donnell could be judged separately from Bally and that therefore Bally's Park Place and Bally Manufacturing Company could be granted a license, while finding O'Donnell not qualified.[87]

The major conditions attached to the licenses were designed to assure that neither O'Donnell nor Wilms could exercise any control or influence over the policies, business or activities of either corporate applicant. In a summary of their specific evaluation of O'Donnell they remarked upon his "kindness, generosity, loyalty, intelligence and leadership ability" but concluded that "he has not satisfied us by clear and convincing evidence that he possesses the high standard of good character, honesty and integrity demanded by the Casino Control Act".[88]

What the Bally case seems to show is the influence that a casino can exert. As a condition of the

Temporary Casino Permit, Bally's Park Place was required to "co-operate with and aid in the development and implementation of plans to improve the traffic circulation of Brighton Park area". The Commission stated that Bally's Park Place assumed the major cost in upgrading Brighton Park, i.e., a new irrigation system, resodding, new landscaping, etc. The casino employed, at the same time that the Commission was considering whether or not it should even be licensed, 4,300 persons in a huge new casino complex.[89] Bally's Park Place was committed to providing a "reasonable share of the housing construction requirement for Atlantic City". By December, 1979, Bally accepted responsibility for 56 units of family housing. The hotel met the requirements and exceeded the minimum qualifying sleeping units specified. Evidence of the power of the Bally Corporation appears at several levels, even if the possibility of direct payoffs is excluded. When Bally failed to hire the appropriate number of minority personnel, assigned 'correction' was for Bally to make a meaningful financial contribution to Atlantic Construction Training Program--a non-profit corporation formed to develop apprentice training programs. Wherever dollars could rectify a situation, Bally was quick to respond, and seemingly generous in the settlement.

The bifurcation between enforcement and adjudication was intended as a "checks and balances" system which would reduce or eliminate corruption. In New Jersey, the Casino Control Commission is responsible both for regulating the casinos and for the economic development of the Atlantic City "blighted" area. These two responsibilities may prove contradictory and result in a biased evaluation of potential casino operations.

B. Organized Crime and Corruption: "The Mob Wades Ashore In Atlantic City"[90]

New Jersey has not succeeded in showing organized crime that it is not welcome in Atlantic City. Governor Brendan Byrne's warning to "keep your filthy hands out of Atlantic City, keep the hell out of our state" has had little effect. The evidence of criminal involvement is conclusive. As Salerno put it in a poetic metaphor: "I see the beginning of silken webs spun by rarious spiders around Atlantic City".[91] The chairman of the Casino Control Commission, Joe Lordi, according to the evidence, had dealings with organized crime families and gave a reference for a gun permit to a man with a police record who associated with organized criminals. The structure of casino gambling control in New Jersey gave too much authority to a single official who negotiated without the knowledge of the other part-time commissioners.

The Economist, in an exposé of sorts, declared that:

> Gaming companies have hired so many New Jersey politics into their employ that they control what has been described as a government in exile. In one capacity or another gaming companies have retained every prominent law firm in the state whose members include recent office-holders from a former governor and chief justice to a former state attorney-general, and political insiders from the former state chairman of the Democratic Party to Mr. Byrne's former law partner.[92]

One author observes that whereas the law made it illegal for Division and Commission members to have an interest in casinos, the legislators who wrote the law did not extend the prohibition to other State officials. Therefore, even though these individuals are not in positions of direct control of the casinos, their positions, or previous positions, would have been influential in setting up the regulation and establishing procedures for running the operations.[93] A study by the New York Times of land sales and other transactions showed that in 1979 more than 50 top local officials and key government employees, including five of the nine members of the Planning Board, and three of the seven members of the Zoning Board had invested in Casino stock, sold property for casino development or had other financial ties to the gambling industry.[94]

What emerges is a picture of overlapping interests. The gambling entrepreneurs hire the most knowledgeable lawyers to work for them. The gambling business is still relatively new in New Jersey and therefore the experts in the field were often brought in from Nevada and often had experience in running casinos prior to the attempt at changing the image of the casino industry. The result maybe a network of politicians, interacting with gaming entrepreneurs who associated directly or indirectly in organized crime. Mayor Lazarow of Atlantic City is quoted as having declared:

> All we care about is seeing these casinos open up and improve our economy. We're not concerned about who runs them.[95]

Investigations into corruption have resulted in several political careers being terminated, Kenneth McDonald resigned from the state's Casino Control Commission after allegations that he helped one of the F.B.I.'s fictitious sheiks to obtain a casino license and Senator Harrison Williams was filmed boasting to undercover agents that he helped one casino applicant save $3 Million through a contract with the Commissions Chairman Joseph Lordi. However, even greater termination is being experienced within organized crime circles. The director of the Pennyslvania Crime Commission, Wallace P. Hay, refers to thirty recent gangland slayings as a likely indication of "a major reshuffling underway in the mob structure from Maryland through New York City", as organized crimminals vie to move into the Atlantic City area.[96] However, Lt. Colonel Justin Dentino of the New Jersey State Police argues that this "war" which is predominantly within the Bruno crime family began as early as 1975 and relates only to the vying for power within the criminal organization rather than to casino control.[97] Organized crime is discussed further under our discussion on credit.

C. Failure at Land Development and Planning: Benefits for the Elderly, Increased Employment and Environmental Concerns

Casino gambling was introduced into Atlantic City ostensibly to solve social ailments. The constitutional amendment which legalized the gambling operations provided that any state revenue derived from the casinos would be applied solely for the purpose of providing reductions in the property taxes, rent, and municipal utilities bills of eligible senior citizens and disabled residents of the State.[98] These intended recipients claim not to have benefited through the adoption of casino gambling and the increased revenue that was supposed to assist them.

The New Jersey legislature approved casino-hotel development partially as a means of remedying the substandard and insufficient housing which existed in Atlantic City. Prior to casinos, the number of demolitions outpaced the rate of construction. Between 1970 and 1977, 1,031 units were built while approximately 2,191 demolitions were recorded.[99] In addition, Atlantic City had more subsidized housing units than any other city in New Jersey and another 3,000 were being processed or proposed. Casino gambling was seen as a source of funds which, with a master plan for careful redevelopment, could revitalize the city. A carefully considered plan was essential because there was a limited land mass and very little vacant land; aging, but existing structures--some deserving of preservation; a residential population that was largely poor, elderly, or both; and an inadequate street network.

The specific details of the Atlantic City development plan can be obtained elsewhere but what ought to be emphasized here is the complexities involved in the introduction of casinos.

(i) Land Banking

Land banking by the state was less than successful in Atlantic City because it was started only after prices had begun to rise. Municipal budget constraints and limited federal funding prevented much State acquisition.

(ii) Land Speculation

The implementation of controls to curb land speculation was met with strong political opposition--perhaps because local long-time residents could lose under such regulations.

(iii) Taxation

When speculators are buying up land which will have a high value, the tendency is for their tax to reflect this value. However, these high taxes will drive the low to middle income residents out of the neighbourhood. If taxes are kept in line with what they were prior to the speculation, then it will serve to encourage the speculators to hold on and not develop or sell their properties. Between the 1976 legalization of casino gambling and 1980, Atlantic City lost 400 private businesses (there were 2,100 in 1976 and 1,700 in 1980) and this decline is expected to continue. The casinos are making money for themselves and for the State through tax revenue, but the small business operator can no longer pay the increasing property tax and is either abandoning his business or selling out to land speculators if his property is suitably located.

(iv) Domination by Casino Construction

Non-casino building and development may not be competitive with casino construction. The State of New Jersey had declared that Atlantic City would not be dominated totally by the casino industry, but that a mixture of businesses, industry and recreational facilities would co-exist. Competition for labour and materials has driven up the costs of construction. The casino industry has proven itself to be better able to compete than other private or government developers. The danger exists that the city will become dominated by casino construction.

(v) Employment

An important consideration in the introduction of casinos was the large number of jobs that would be created. This was expected to limit the need for subsidized housing and to reduce the number of persons requiring welfare. The results have been almost the reverse. Most of the casino-related jobs have been filled by non-residents of Atlantic City.

Atlantic City had had a problem of seasonal employment and it was argued that the casinos would alleviate this situation. To date, the reverse is true. The proportion of seasonal jobs, as compared to full year employment, has declined but the actual number of such jobs has more than doubled. This relationship was true also for welfare assistance--the numbers increased even though the proportion of the total population on welfare decreased. The casinos multiplied so quickly once the first three were in operation that casino-related job training programmes for local residents were ineffective at directing the City's population into the gambling industry's employment. The new casinos required trained personnel immediately and, therefore, recruited their most essential employees from Nevada. New Jersey is beginning to place some locally trained residents in some of these positions but still the low pay, low prestige and non-skilled positions are most often the positions offered to New Jersey residents.

(vi) Housing

The competition for housing has driven the poor and elderly out of their homes. In some cases, the low middle class has been forced from their businesses, which now sit vacant due to exorbitant rentals and taxes.[100] The city government responded to rising assessments by cutting the property tax rate from $7.13 to $3.62 per $100 valuation, but revaluation by the city tax assessor increased land valuation by as much as 500%. Hawkins reaches the conclusion that:

> Government concentrated its early efforts on getting the first casino open and keeping organized crime out of the local gambling business. Although that setting of priorities was reasonable, subsequent events have demonstrated the need for early planning that does not neglect the physical and economic effects of development.[101]

(vii) Environmental Destruction

Air pollution, traffic congestion, the demolition of historic buildings, inadequate water sypply and in the case of Atlantic City, fear of destruction of the Pinelands conservation area, are all concerns associated with the introduction of casinos. As Hawkins argues that the rapid redevelopment of environmentally sensitive resort locations entails considerable costs that cannot be measured in dollars.[102] Hawkins suggests that it may be necessary for governments, considering legalizing casinos, to purchase huge land blocks and create "new town" situations rather than attempt to blend or impose the casino structure into an existing environment.

D. Customer Protection: Issues Relating to Alcohol and Tipping

(i) Alcohol

In New Jersey no complimentary or unrequested drinks can legally be served to gamblers on the casino floor. This was intended to eliminate the encouragement of gamblers to become intoxicated. As has been suggested by several studies, once the New Jersey "compromise" rule is applied to a crowded gaming room, it is impossible to monitor when a patron is requesting and when an employee is offering. The State Commission Investigation Report and the Governor's Staff Policy Report suggest that drinking be allowed only outside the immediate gaming area, which would require the gambler to leave the gambling table in order to drink.[103] This has not solved related problems of the proximity of drinking to gaming nor the issue of complimentary alcohol being provided to valuable cutomers.

(ii) Tipping:

The original State Commission of Investigation recommended no tipping for New Jersey but the final Act adopted the tipping procedure used in the Bahamas. The employee deposits the tip in a "drop box" and the weekly amount is distributed among the dealers on the basis of the number of hours they worked.

The anti-tipping rule was aimed at avoiding direct interaction between the dealer and the patron however, the dealer can always find a patron to place bets for him and enter into other forms of collusion and deception. The anti-tipping rule can only attempt to reduce corruption at one level.

E. Skimming, Theft & Tax Evasion

Casino revenue has always been hard to monitor. The cash flowing from customer to dealer and dealer to management is an open invitation for theft. Any 'check' system tends only to control one period in the movement of the cash. The operating principle, however, seems to be that enough checks will result in a fairly honest system.

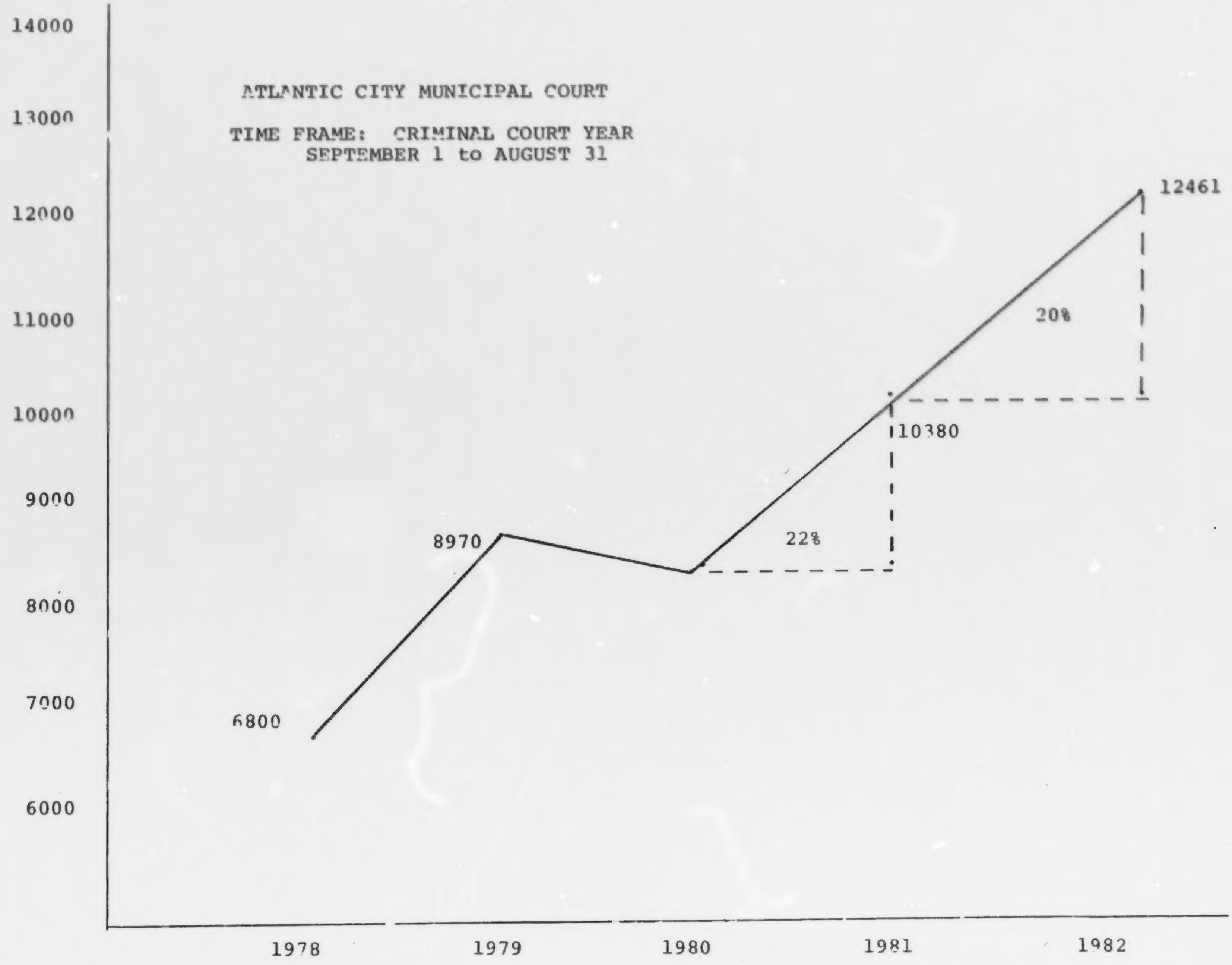
In New Jersey, each gaming table is equipped with a box into which the money is deposited. It is termed a "double-lock drop box" because the Commission has possession of the key to one of the locking devices and the casino operator possesses the other. The drop box is taken to a counting room and in front of the various representatives, including two State investigators, the money, i.e., house winnings, is counted. What this means is that, if it can be assumed that the State investigators, Commission agent and casino management cannot be persuaded to collaborate and share the illegal rewards of skimming, then any theft must occur at an earlier stage, prior to the money dropping into the double-lock box. No clear estimate exists of how much skimming occurs prior to the money entering the drop-box.

New Jersey law enforcement officials have agreed with the IRS that skims can occur in slot machine operations, and they have found casinos to be highly vulnerable to costly credit frauds engineered by insiders and their outside conspirators. For example, middle-level employees of Bally's casino and an outside crime group defrauded the casino of $4 million within a two week period in the summer of 1980. In 1981, (May 11), the Attorney General charged Resorts International and ten casino officials with violation of casino credit regulations for their involvement in a "cheque kiting" scheme that defrauded Resorts International of $4.1 million.

Casino financial operations are not the same as those of other businesses because of the extent of cash flow. Chips are the equivalent to cash and must be controlled in the same manner.

F. Increase of Street Crime in Casino Environment

The Interim Report on Casino Gambling noted that casinos draw together all the classical components for large-scale increases in street crime activities--a large transient tourist population, a permissive social environment, accelerated commercial activity, large amounts of loose money in circulation and an influx of a large number of persons attracted to such an atmosphere for criminal purposes. The increased levels of law enforcement and the cash losses must be subtracted from estimates of revenue profit which the casinos create. Some of the extra policing within the casino is paid for by the casino (i.e. money count overseers, security in the gaming rooms, etc) but outside, changes in crime rates are borne by society. Rising crime--specifically prostitution, alcohol and drug abuse, pornography, pickpockets and fraudulent business schemes, hotel room breaking and entering and car theft--becomes a threat both to those living in the area and to the gambling visitors. At the street level, these offenses are similar to the crimes committed in any heavy tourist area. The extent of the population "swell" is indicated by the fact that during the summer, 1-1½ Million people can be in the city which has a residency population of approximately 48,000. The following graph charts the increase in total criminal complaints filed between 1978-1982.[104]



ATLANTIC CITY MUNICIPAL COURT

TIME FRAME: CRIMINAL COURT YEAR
SEPTEMBER 1 to AUGUST 31

G. Public Hearing on Statutory and Regulatory Controls Over Casino Credit and Casino Industry Credit Practices (Trenton, New Jersey, March 1-4, 1983)

Originally, when proposals for the operation and regulation of the New Jersey casino industry were being considered, it was recommended that no credit be granted except for cheque cashing with deposit due in two business days. Gradually this changed and credit is now extended to gamblers who have an established credit rating, who are then granted 90 banking days (120 calendar days) to repay any credit over $2,500. These restrictions on the granting of credit, as lax as they are, are in practise even less rigidly enforced. Lax credit, indebted gamblers and collection difficulties all create an unsavory and unnecessary problematic environment which feed into the compulsive gambling debate and the issue of the government role in encouraging this particular form of consumption. Unlike the Nevada casinos, Atlantic City is only a short drive from home for over 30 million potential gamblers. These concerns were the subject of a public hearing on credit practices held in Trenton, New Jersey, March 1-4, 1983.

i) Extent of Credit

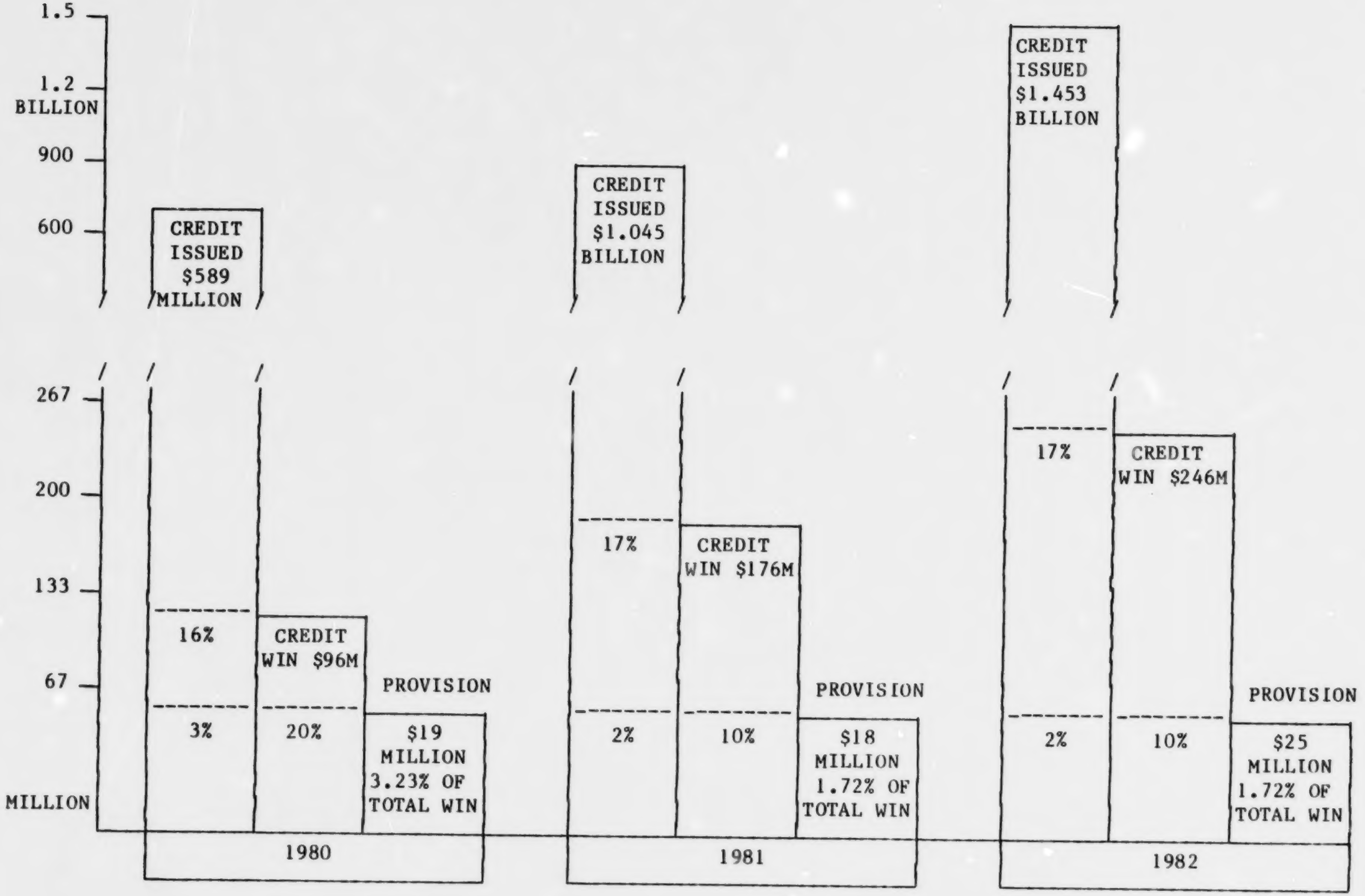
It might be assumed that because the original recommendation in New Jersey was to deny credit, the amount of credit granted would be minimal. Attorney General Irwin Kimmelman dispelled any such belief in the opening presentation by informing the audience that from May 1978 - December 1982 players purchased chips totalling $12 billion and of that $3.3 billion was purchased with credit. The credit for 1982 alone was approximately $1.5 billion and may indicate future trends. Several of the casinos advance almost one million dollars each in credit daily and credit currently accounts for nearly 30% of all table game revenue. This becomes critical because one of the main determinants of whether or not an individual will get credit is whether or not another casino has extended credit to the player--not whether or not the debt was ever paid off, or the player had a bank account to cover the credit, or whether or not a debt was ever written off for the person in question.

The 4% gross revenue write-off that the casinos are granted free from taxation to cover bad debts tends to encourage the high-risk granting of credit. Credit is only granted at the table games not at the slot machines, and because 54% of the revenue is generated at the tables and 46% from the slot machines, this 4% write-off can be used solely to counteract bad table credit debts. The percentage of bad debts ought to be measured only against the income derived from credit (rather than against the total gaming income) to show the actual extent of the problem. The statistics on the amount of bad debts appear small when compared to total revenue, but significant when compared to all credit granted. From January 1979, through the end of 1982, approximately $64 million worth of bad cheques and unpaid markers remained uncollected by the casinos.

When people on public assistance are given $35,000 credit, and when a player who makes $15,000 a year can end up owing two casinos $90,000, bad casino credit management can be identified. However, when known mobsters who do not even gamble are granted $27,000 in "comps" (complimentaries such as a room, food, entertainment) and other notorious organized crime family members receive credit in the hundreds of thousands of dollars, there may be something more at stake than simply poor decision making. However, all allegations of wrong doing become a matter of evaluation, because the casinos are not at this time bound by rules of credit administration for which they could be held accountable. As Attorny General Kimmelman stated: "They exercise their unfettered discretion in the name of 'business judgement' which they use as a cloak of immunity".[105]

Coupled with the apparent haphazard granting of credit and the casino operators ability to write-off 4% of gross revenues for bad debts, the practice of granting the credit customers 120 (or 90 banking days) interest free to repay any loans over $2,500 should be examined. Even when the money is repaid, it has been unaccounted for during this "lag time". If the money has been used for gambling then the 120 day lag time and the tendency to give credit to those who have been granted it before allows the patron to "chase his money" by applying for credit elsewhere in order to win back what he has lost--or to lose the original plus the additional credit. The lag period also allows for "kiting". Credit from one casino can be used to pay off another casino. While the patron can keep moving his credit money around from casino to casino he is building up his credit rating every time a payment is made--even a partial payment. The casinos do not consult with each other to guard against the eventual massive write-offs of bad debts made necessary by these practices. The following table presents the casino credit figures for 1980 and 1982. Twenty-five Million dollars (or 1.72% of total win) was written off to bad cheques and unpaid markers. Over $64 Million have been written off since 1979. The 1982 tax write-off represents $2 Million loss to the senior citizens fund in addition to percentage losses to numerous other organizations.

CREDIT ISSUED (CHIPS PURCHASED ON CREDIT)
CREDIT WIN, PROVISION FOR UNCOLLECTABLE



ii) Walking-With-Chips

Some credit problems would be solved if it were possible to prevent the patron from "walking with the chips". The problems of excessive gambling would remain but there would be less risk of the patron using the credit extended by the casino to invest in an illicit enterprise (one example presented was of an individual who was conducting a loansharking operation from the floor of the casino using credit money as the base of his operation). It appears difficult, however, to maintain surveillance over credit purchased chips. To reduce collusion among casino personnel, the casino keeps the granting of credit separate from the cashing of chips. There is little or no interaction between these bifurcated aspects of casino management. Once a patron is granted credit in the form of chips it is relatively easy to go to the teller wicket and cash in the chips for dollars. The tellers will ask if the patron has any credit outstanding and the patron may lie or give a different name or have an accomplice who could honestly respond in the negative. Some of the employees on the floor keep an eye out for known and large credit customers but it is impossible to keep a check on all customers once the credit is granted. After a few minutes at a crowded gambling table it might appear that the chips had been gambled away, although the patron may have walked with most of the money. Even where the patron has played and has won there is no necessity to pay back the credit until the 120 interest free days have elapsed.

iii) Fraud Related to Credit Practices

Mr. Barry Goas, Chief of the Casino Control section of the Attorney General's Criminal Justice Division outlined six of the ways that "scams" are conducted in the casino credit market.

a. Bank Account/Accomplice Scam

Step 1: The patron can temporarily inflate his bank balance and offer this balance as a basis upon which to qualify for credit. The money in this account may be borrowed for the couple of days around the period that the casino would be checking. Newly opened accounts are therefore suspect, however, casinos are not always concerned about this fact. The patron may explain that he/she is "new to the area" in order to explain the account. In some instances an accomplice in the bank has given out false information on the patron. Based on this artifical balance, an amount of credit will likely be granted.

Step 2: The credit patron may play at a table with a confederate and bet even and odd against him. In that way no chips will actually be lost and the confederate can take the 'winnings' to the wicket and cash them in.

Step 3: Credit will be built up during a process of paying off small credit debts as the player's reputation is established. After a major amount of credit is granted the patron can simply walk away with the dollars.

A notable scam, named "Operation Pisces" by the law enforcement officials involved a large number of persons obtaining and walking away with relatively small amounts of money--an average of $35,000 per person for a total theft of $7.9 million of which the State lost an amount based on the 4% of the gross revenue write-off allowance. With the patron having 120 days in which to pay back the credit loan, four months will have gone by before the scams are detected or investigations can even begin.

b. Front-Money Scam

A variation on the previous scam is the technique of bringing an amount of cash to the casino to leave in the safety deposit box to be used as "up-front" money. This amount will be significant--perhaps $10,000-- and on the strength of this the patron will be granted additional money upon demand. In this way the credit line will be built up beyond the level of the patron's resources.

c. T.T.O.

This is hardly a scam in the traditional sense of the word since the casinos seem to deliberately encourage this form of abuse. If a patron has a credit limit of $5,000 he may request that "this time only" he be granted an additional $10,000. If he pays the first T.T.O. off then it is likely that his limit will soon be raised. If the patron is walking with chips, the confidence that the paying off of the first T.T.O. instills in the casino management may be quite false. When the credit limit becomes significant the patron may "walk" with the entire amount.

d. Use of Volunteers and Forced Volunteers

If a patron knows that he would have difficulty obtaining credit for himself, he may enter into an agreement with someone else. The volunteer will obtain the credit and keep a percentage of the money for himself and give over the rest to the non-credit worthy patron. If the gambler is using the credit dollars for a profitable illicit activity and is not likely to lose the money in the casino, the volunteer has nothing to lose regarding payback. From a law enforcement point of view, however, the credit granted has dissappeared from sight.

The forced "volunteer" situation may involve a loansharking situation where the loanshark forces the indebted individual to go to the casino to get credit that will then be used to pay off his previous loans. The indebted individual will now owe the casino that which he previously could not pay to the loanshark.

e. Use of a Ficticious Patron or a Ficticious Name

Collusion between gamblers can cause casino losses because in most cases a person can only be held responsible for the gambling he himself does. One patron may enter the casino and claim to be another individual who he knows has a particular credit line at the casino. Identification would usually need to be shown, but if the actual credit-holding individual is getting a kickback then obtaining the necessary document would not be a problem. When the casino demands to be paid back the person in whose name the credit was held denies having been in the casino on those particular nights--and in fact he was not. It will usually be easy for him to prove his presence elsewhere.

Another variation of this scam is for an individual to go to the casino with the identification of a doctor or lawyer or someone who would seem to be reliable. With this false identification the individual may request credit. If it is on the weekend and the credit/ employment references are unavailable the casino may grant a T.T.O. to the individual while his application is being processed.

f. The Large-Scale Multi-Dimensional Scam

These operations make use of many of the previously discussed scams. The emphasis tends to be on high volume/low amounts of credit theft. The numerous and invisible people involved will seldom reveal themselves to be interconnected--especially given the 120 day delay in any investigation.

Operation Pisces, which was mentioned earlier, is one example of a scam of this sort that was uncovered. A thirteen month investigation revealed involvement by 8 casinos in a $7.9 million swindle by numerous individuals in collusion with a bank official who gave out false financial reports on the scam members.

iv) Casino Credit and Organized Crime

Any casino which allowes credit as an integral part of its operation is welcoming organized criminals to participate in the gambling and to make use of the casinos to operate other illicit enterprises. Originally, in Nevada, the involvement of organized crime was so blatant that the officials in the counting rooms are reported to have divided the money into three piles--one for the casino, one for the government and one for organized crime. When attempts were made to "clean-up" the casinos, then the credit system came to Nevada as a replacement for the more obvious pay-offs that had been made.

Experts state that minor tinkering will not adequately combat the schemes of the dedicated gambler or the involvement of the organized criminal. The schemes will change as enforcement changes. The serious casino patron is infinitely adaptable and it is naive to think otherwise. This is not to say that "nothing works", but rather to appreciate the difficulties involved in maintaining control over casino operations. Tightening up on the credit procedures would be a place to begin, and if it is deemed possible, the decision might be to eliminate credit. If patrons do not want to walk around the casinos carrying wads of money, then they could have access to safety deposit boxes whereby they could use up to the limit that they have already deposited at the casino or some generalized area shared by all of the casinos that would operate like a 24 hour savings bank.[106].

The critical factor seems to be that other businesses restrict credit because it is good business to do so. Casinos tend to be generous because, again, it is good business with little risk involved--paper money to begin with, plus a 4% write-off to cover bad debts. Instead of a bad debt write-off, perhaps the casinos should pay double for all debts uncollected.[107] This might not be enforceable because only the casinos would know--or be able to control--which debts were uncollected, but it would serve to remove the incentive from the careless granting of credit. The involvement of organized criminals in the casinos would have to be dealt with as a separate issue because the threat from these individuals is not that they will be poor risks in any traditional sense, but rather that they will use the credit in illicit activities or be involved in large scale scams to defraud the casinos using credit practices as the vehicle for their schemes.

Testimony at the credit hearings included a lengthy listing of the known organized crime figures who have received documented amounts of credit and "comps" from various Atlantic City casinos or who used the casinos to deposit large sums of money.

Lieutenant Colonel Justin Dintino of the of the New Jersey State Police stated:

> In 1978, Former Governor Brendan T. Byrne warned organized crime to 'keep the hell out of Atlantic City'. It is rather embarrassing to witness members of organized crime receiving both credit and

> "comps" from the very casinos which we have laboriously investigated. The state denied licensure to a number of persons with significantly fewer criminal proclivities and yet we allow paid killers, convicted murderers, drug traffickers, and known loansharks to enter the casinos and receive preferential treatment. It is an affront to the state of New Jersey and makes a mockery of our regulatory process.[108]

To further substantiate this evidence regarding the lax casino credit policies, Detective Sergeant Gregory Wallack of the New Jersey State Police, assigned to the Division of Gaming Enforcement, recounted a few of the cases where the casinos had in their files documented derogatory information which was ignored by the credit managers.

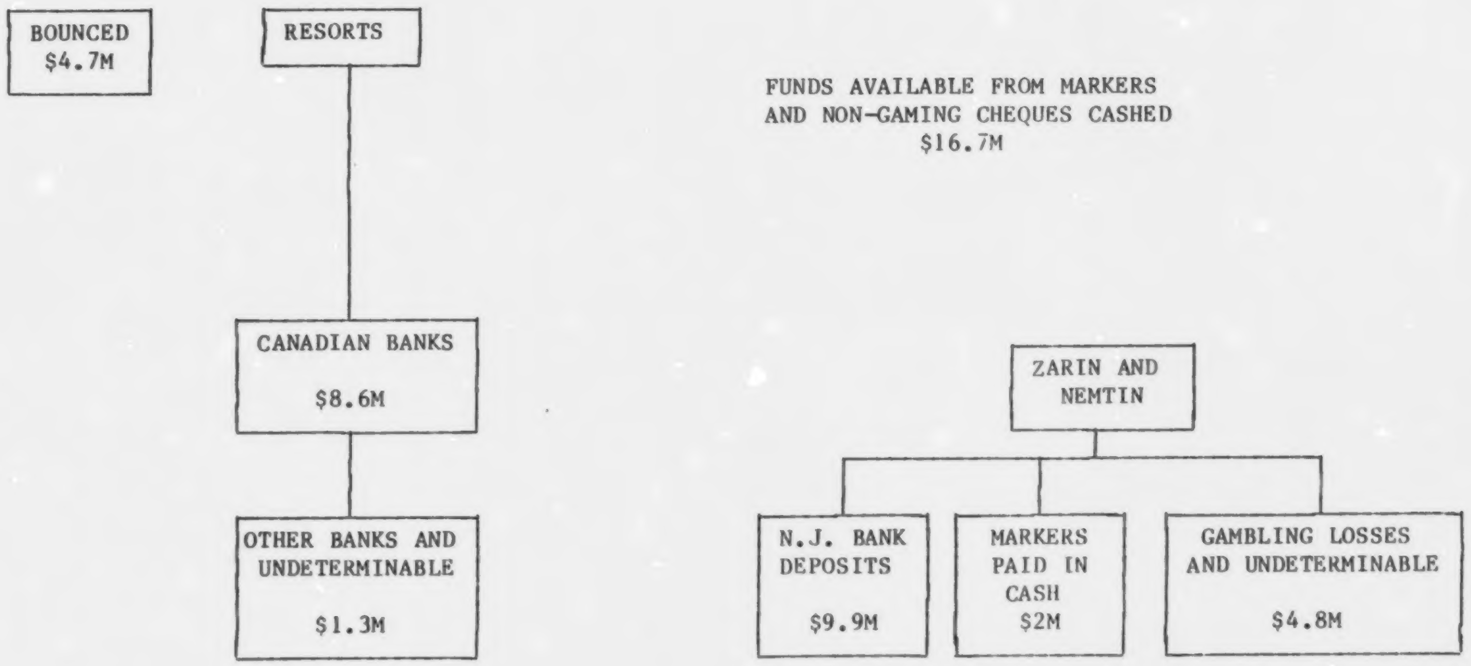
v) The Courting of Big-Time Gamblers

Multi-million dollar casino gambler and loser David Zarin sued the Atlantic City casinos under the triple damage clause of the RICO legislation for their having repeatedly and knowingly caused him to go into debt and bankruptcy through granting credit and "comps". He eventually settled out of court. The Zarin case serves to indicate the strength of the ties between the gamblers and the casinos who are supposed to remain to some extent neutral in the credit decisions that they make. Zarin ended up owing 3.4 million dollars ($4.6 million if you include what was under another name which Zarin eventually took responsibility for). Much of the credit that he received was obtained from Resorts International.

The Credit Manager at Resorts International seemed surprised that there should have been any question as to why he had repeatedly granted such extensive credit to this man who "was so prominent in town", "gentlemanly", and "dealt with the Federal and State governments". The manager

SUMMARY OF "GAMING" AND "BANKING" TRANSACTIONS OF DAVID R. ZARIN AND MARTHA NEMTIN

For the period February 1, 1980 through May 1, 1980


BOUNCED
$4.7M
RESORTS
FUNDS AVAILABLE FROM MARKERS AND NON-GAMING CHEQUES CASHED
$16.7M
CANADIAN BANKS
$8.6M
ZARIN AND NEMTIN
OTHER BANKS AND UNDETERMINABLE
$1.3M
N.J. BANK DEPOSITS
$9.9M
MARKERS PAID IN CASH
$2M
GAMBLING LOSSES AND UNDETERMINABLE
$4.8M

acknowledged that he knew Zarin was daily taking cash away from the casino and on numerous occasions Zarin was allowed to cash non-gambling cheques up to $50,000. The non-gambling cheques were used to keep the cycle of credit/debts moving. As a 'courtesy' to Zarin, Resorts International acted as his bank cashing agency. This makes it more surprising that the casino was not unduly surprised when Zarin announced that he was opening a Canadian bank account at the Royal Bank of Canada. The rational seems to have been that it would take longer for cheques to clear through Canada and therefore he would have some additional days in which to obtain funds.

By this time, in order to compete with Caesars and the other casinos, Zarin had full "comps" at Resorts and had received gifts, such as a watch. Ceasars had given both Zarin and a friend of his large-screen T.V.s and a boat trip to the Bahamas on a private Caesars yacht. When Zarin returned from the cruise, Resorts annouched that he now had unlimited credit at their casino plus cheques would be considered good as soon as they were written. By April 30, 1980 cheques were being returned from Canada NSF and settlements were being made between the various casinos. Over $3 Million were written-off.

vi) The Compulsive Gambler

Gambling research in the past has been ambivalent regarding the compulsive gambler--at times taking his claims of exploitation seriously and in other reports discounting his concerns. This is now changing. The gambling industry is having to take more serious the claims of compulsive gamblers due to the increasing number of law suits that are being filed against the casinos. To date, four cases alleging that illegal and/or unconsciousable extensions of credit caused the accumulation of gambling debts, have been filed. One such case (Resorts International Hotel, Inc. v. David Zarin and Martha Nemtin, Docket No. L-14602-80, Superior Court of New Jersey, Law Division, Atlantic County) has been settled while three other cases are still pending.[109]

Repeatedly throughout the testimony of all of the compulsive gamblers there was the theme that the casinos made them feel important--the executives ate with them and told them that they were "high-rollers". The luxurious rooms, the $300-400 meals and entertainment and the company of executives and presidents of the casinos all reinforced the feeling of being "somebody". This appeared to be a critical technique used by the casinos in order to encourage the excessive gambling that took place.

vii) Conclusion on Credit

Casino credit is "paper money" until it is "walked" from the casino, and is therefore not the same as credit granted in other businesses. As Walter Reid, Chairman of the Casino Control Commission stated:

> Credit in casinos is not analogous to the credit extended by traditional lenders such as banks. It is not backed by collateral and when it goes bad, it represents lost opportunity more than lost assets.[110]

The conclusion seems to be that the Atlantic City "model" casino resort, designed to avoid all of the pitfalls inherent in Nevada, is presently portrayed as a haven for organized criminals, and a Mecca for the compulsive gambler. Much of the abuse is seen to relate to the lenient and irregular casino credit regulations. Law enforcement agencies in New Jersey have testified that the necessary monitoring of credit operations used up over one-half of their regulatory resources and that 65% of the prosecutions involved casino credit fraud.

While acknowledging that credit gambling had produced one-fifth of the total casino win and that the existence of credit had served to attract casino operators into Atlantic City, the overall recommendation by the Commission served to emphasize that the negative consequences were more significant than what was gained from the existing credit practices. When the Casino Control Act was being drafted, the State Commission of Investigation had warned that allowing casinos to grant credit would result in "substantial social and law enforcement problems including improper credit collection practices, loansharking and gaming scams". In the 1983 recommendations from the public hearing on casino credit, the Commission listed as their first recommendation the need to "repeal all statutory provisions which authorize the extension of credit at casinos.[111] However, if the legislature is not prepared to repeal all credit, the following list of recommendations by the Commission are aimed at providing better control over credit practice:

1. elimination of tax write-offs for debts,
2. the exclusion of undesirables,
3. a new system by which a patron must pay markers before leaving a gaming table with chips,
4. restrictions on gratuities,
5. a 14 day deadline for depositing markers, and
6. an increase in civil penalties from $10,000 to $100,000 for an individual and from $50,000 to $1,000,000 for a corporation.[112]

4. Casino Taxation Revenue

Atlantic City now has nine casinos in operation and at least four others are under construction. The nine commenced operations within the first three years of the casino legislation. In 1978, while enjoying a monopoly position, the first casino, Resorts International, was the busiest and most profitable casino in the world. By 1980, however, there was concern that some of the operations might actually be losing money and thereby fail to produce the expected tax revenue. Whereas it is true that dollar amounts spent on gambling cannot multiply in an unlimited fashion with the increase in numbers of casinos and that there is a levelling off point that must be estimated in order to decide how numerous and competitive the casinos within a gambling resort can be--it would appear from the available 1982 figures that this saturation point has not yet been reached in New Jersey.

The revenue from the casinos is directed through two funding systems: The Casino Revenue Fund and the Casino Control Fund.

A. Casino Revenue Fund

The revenue in this fund is generated from the annual 8% tax which is imposed on the gross revenues of the operating casinos.

The tax revenue scheme as set out in the Gaming Statute specified:

> In addition to the revenues generated by increased corporate business taxes, property taxes, State and Federal income taxes and local taxes, the Casino Control Act imposes a tax on the gross revenue of the casinos. The

> tax on casino revenue was originally 8% to 12% when two or three casinos were licensed and in operation; 10% when four or five casinos were licensed and in operation; and, 8% when six or more were licensed and in operation. Therefore, with nine casinos, the 8% rate is currently applied.[113]

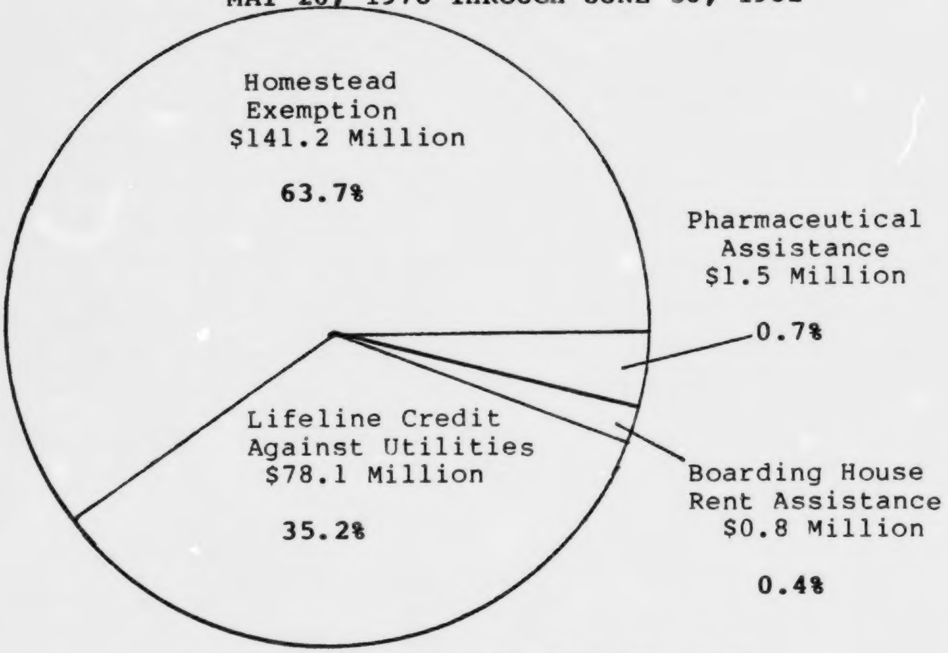
The gross revenues tax is deposited into a special account known as the Casino Revenue Fund and is to be used exclusively for reducing property taxes, rentals and utility charges for eligible senior citizens and disabled residents of New Jersey.

As of 1982, four specific programs had been established:

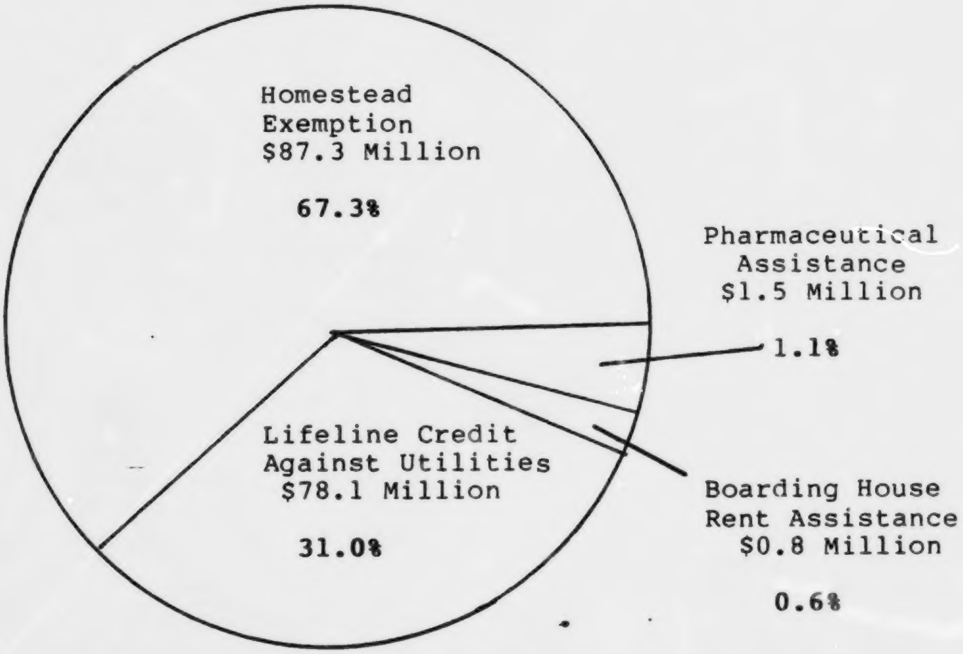
1. property tax (Homestead) rebates for senior citizens and disabled persons
2. Lifeline - assistance with utility bills of the elderly and disabled
3. Pharmaceutical Assistance for the aged and legally disabled
4. Boarding House Rental Assistance - to assist the elderly and disabled to pay their increased rents on boarding houses, where the increases are caused by the expenses incurred by landlords who have installed safety improvements.

The following diagrams show the percentage distribution of the funds to each of the programmes.[114]

CASINO REVENUE FUND DISBURSEMENTS
($ IN MILLIONS) *
MAY 26, 1978 THROUGH JUNE 30, 1982



JULY 1, 1981 THROUGH JUNE 30, 1982



* New Jersey Casino Control Commision, Annual Report. Dec. 31, 1982. p. 21.

B. Casino Control Fund

Costs of governmental regulation of the casino industry are borne by the industry itself to cover those expenses generated from the fees for the issuance and annual renewal of casino licenses. This revenue is used therefore to fund the operations of the Casino Control Commission and the Division of Gaming Enforcement. The following table indicates the revenue generatd and the expenditure for 1981 and 1982. There was a $4,199,900.00 deficit in 1982 which will be made up by the "across-the-board" billing provision whereby each of the nine casinos accept portion of any deficit that might be realized at the end of the year.[115]

STATE OF NEW JERSEY
CASINO CONTROL FUND
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
FOR THE FISCAL YEARS ENDED JUNE 30, 1982 AND 1981

EXHIBIT II
(in $000)

	1982	1981
Revenues:		
Licenses		
Casino	$13,206.4	$11,989.4
Casino Employees	3,924.8	3,949.6
Slot Machine	5,219.5	3,396.3
Casino Service Industry	818.8	862.9
Alcoholic Beverage	763.6	663.8
Work Permits	1,633.8	1,431.3
Special Assessment	—	8,004.4
Fines and Penalties	62.1	225.0
Other Revenues	68.5	18.3
Total Revenues	25,697.5	30,541.0
Expenditures:		
Public Safety and Criminal Justice (Division of Gaming Enforcement-Schedule 1)	18,070.4	14,721.3
Government Direction, Management and Control (Casino Control Commission-Schedule 1)	12,571.7	8,418.3
Total Expenditures	30,642.1	23,139.6
Other Decreases:		
Interest (Note 11)	68.1	267.0
Total Other Decreases	68.1	267.0
Total Expenditures and Other Decreases	30,710.2	23,406.6
Net Increase (Decrease) in Fund Balances for the Year	(5,012.7)	7,134.4
Fund Balances - Beginning of Period	812.8	(6,321.6)
Fund Balances - End of Period	$(4,199.9)	$ 812.8

() Denotes minus figures

It is revealing to compare the casino win figures between Las Vegas and Atlantic City.

	1983		1984	
	Projected Casino Win	# of Casino	Projected Casino Win	# of Casino
Las Vegas	1.8 Billion	90	1.9 Billion	90 approx.
Atlantic City	1.7 Billion	9	2.1 Billion	10

As this table indicates, with only approximately 10% of the number of casinos that Las Vegas has, Atlantic City is projected to produce almost the same casino win during 1983 and is projected to have a larger win figure for 1984.

The estimated revenue to be received by the State of New Jersey for Fiscal Year 1984 is as follows:

Casino Revenue Fund - $135,000.000
Casino Control Fund - 38,500.000[116]

The most recent calendar year revenue figures are the 1982 statistics, and because the various quarters of the year produce different volumes of gambling, these complete figures are the most reliable. For calendar year 1982, the total gross casino revenue from Atlantic City was $1,484,165,000. The net income to the casinos from this figure was $56,833,000.00. Whereas there is no justification for expecting a decrease in the 1983 gambling revenue figures, the first quarter of 1983 resulted in only $364,010,000.00 with a net income of $4,024,000,00. The winter months draw smaller crowds than the summer ocean climate and may be a consideration to other jurisdictions considering casinos.

The following two tables provide the 1982 gross revenue and related tax figures for each separate casino.[117]

TABLE 1

THE NEW JERSEY CASINO INDUSTRY
GROSS REVENUE AND RELATED TAX
MAY 26, 1978 THROUGH DECEMBER 31, 1982

Casino-Hotel	Revenue	Number of Days in Operation	Daily Average Revenue	Adjustment for Uncollectibles	Gross Revenue after Adjustment	Tax
Resorts						
1982	$ 215,475,611	365	$ 590,344	$ 3,560,855	$ 211,914,756	$ 16,953,180
1981	186,527,689	365	$ 511,035	1,333,093	185,194,596	14,815,568
1980	212,317,173	366	$ 580,102	5,029,472	207,287,701	23,420,553[a]
1979	232,945,748	365	$ 638,208	655,908	232,289,840	23,362,060
1978	134,073,445	220	$ 609,425	400,000	133,673,445	10,693,876
Total	$ 981,339,666	1,681	$ 583,783	$ 10,979,328	$ 970,360,338	$ 89,245,237
Caesars						
1982	$ 194,203,214	365	$ 532,064	$ 4,392,000	$ 189,811,214	$ 15,184,897
1981	194,094,699	365	$ 531,766	6,313,695	187,781,004	15,022,480
1980	208,788,576	366	$ 570,461	6,866,199	201,922,377	22,359,921
1979	91,283,224	189	$ 482,980	345,000	90,938,224	10,8789,678
Total	$ 688,369,713	1,285	$ 535,696	$ 17,916,894	$ 670,452,819	$ 63,446,976
Bally						
1982	$ 196,421,937	365	$ 538,142	$ 1,651,845	$ 194,770,092	$ 15,581,607
1981	188,834,435	365	$ 517,355	4,335,055	184,499,380	14,759,950
1980	181,524,144	366	$ 495,968	7,240,000	174,284,144	19,202,469
1979	1,251,559	3	$ 417,186	10,000	1,241,559	148,987
Total	$ 568,032,075	1,099	$ 516,863	$ 13,236,900	$ 554,795,175	$ 49,693,013
Sands						
1982	$ 145,715,455	365	$ 399,220	$ 4,175,865	$ 141,539,590	$ 11,345,620[b]
1981	92,181,056	365	$ 252,551	2,034,000	90,147,056	7,211,764
1980	27,277,791	141	$ 193,560	0	27,277,791	2,627,207
Total	$ 265,174,302	871	$ 304,448	$ 6,209,865	$ 258,964,437	$ 21,184,591
Harrah's						
1982	$ 175,695,745	365	$ 481,358	$ 1,445,920	$ 174,249,825	$ 13,939,986
1981	142,531,544	365	$ 390,497	1,200,000	141,331,544	11,306,524
1980	7,805,706	39	$ 200,146	0	7,805,706	628,522
Total	$ 326,032,995	769	$ 423,970	$ 2,645,920	$ 323,387,075	$ 25,875,032

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[a] Includes a $319,392 penalty imposed by the Casino Control Commission and paid by Resorts.

[b] Includes $19,653 in delinquent taxes and $2,800 in interest paid by Sands.

TABLE 2

THE NEW JERSEY CASINO INDUSTRY
GROSS REVENUE AND RELATED TAX
MAY 26, 1978 THROUGH DECEMBER 31, 1982

Casino-Hotel	Revenue	Number of Days in Operation	Daily Average Revenue	Adjustment for Uncollectibles	Gross Revenue after Adjustment	Tax
Golden Nugget						
1982	$ 184,686,846	365	$ 505,991	$ 2,371,000	$ 182,315,846	$ 14,585,268
1981	157,538,341	365	$ 431,612	997,500	156,540,841	12,523,267
1980	4,959,855	20	$ 247,993	0	4,959,855	396,788
Total	$ 347,185,042	750	$ 462,913	$ 3,368,500	$ 343,816,542	$ 27,505,323
Playboy						
1982	$ 141,651,221	365	$ 388,086	$ 4,056,000	$ 137,595,221	$ 11,007,618
1981	93,889,449	262	$ 358,357	1,800,165	92,089,284	7,367,143
Total	$ 235,540,670	627	$ 375,663	$ 5,856,165	$ 229,684,505	$ 18,374,761
Claridge						
1982	$ 89,593,743	365	$ 245,462	$ 1,624,842	$ 87,968,901	$ 7,037,512
1981	33,004,304	162	$ 203,730	297,950	32,706,354	2,616,508
Total	$ 122,598,047	527	$ 232,634	$ 1,922,792	$ 120,675,255	$ 9,654,020
Tropicana						
1982	$ 149,720,309	365	$ 410,193	$ 2,160,919	$ 147,559,390	$ 11,804,751
1981	11,181,245	36	$ 310,590	154,280	11,026,965	882,157
Total	$ 160,091,554	401	$ 401,251	$ 2,315,199	$ 158,586,355	$ 12,686,908
Industry Total						
1982	$1,493,164,081	365	$4,090,860	$25,439,246	$1,467,724,835	$177,440,439[b]
1981	1,099,782,762	365	$3,013,103	18,465,738	1,081,317,024	86,505,361
1980	642,673,245	366	$1,755,938	19,135,671	623,537,574	68,635,460[a]
1979	325,480,531	365	$ 891,727	1,010,908	324,469,623	34,390,725
1978	134,073,445	220	$ 609,425	400,000	133,673,445	10,693,876
Total	$3,695,174,064	1,681	$2,198,200	$64,451,563	$3,630,722,501	$317,665,861[a,b]

---

[a] Includes a $319,392 penalty imposed by the Casino Control Commission and paid by Resorts.

[b] Includes $19,653 in delinquent taxes and $2,800 in interest paid by Sands.

[c] Does not include $2,114,401 interest earned from April through December 1982.

The following five tables present current figures on casino revenue. The first table shows the total "drop" for 1982 for casinos, race-track betting and lotteries.[118] Table 2 shows the direct revenue benefit to the State from these same three forms of legalized gambling.[119] Table 3 shows the breakdown in casino wins as derived from the slot machines, cash table, and credit table casino activities, for a three-year period.[120] Table 4 compares each authorized game and ranks them on the basis of the contribution they make to the total casino win.[121] The final table, number 5, focuses specifically on table gaming and provides a comparison between amount bet and amount won by the casino.[122]

TABLE 1

NEW JERSEY LEGALIZED GAMBLING TOTAL DROP FOR 1982

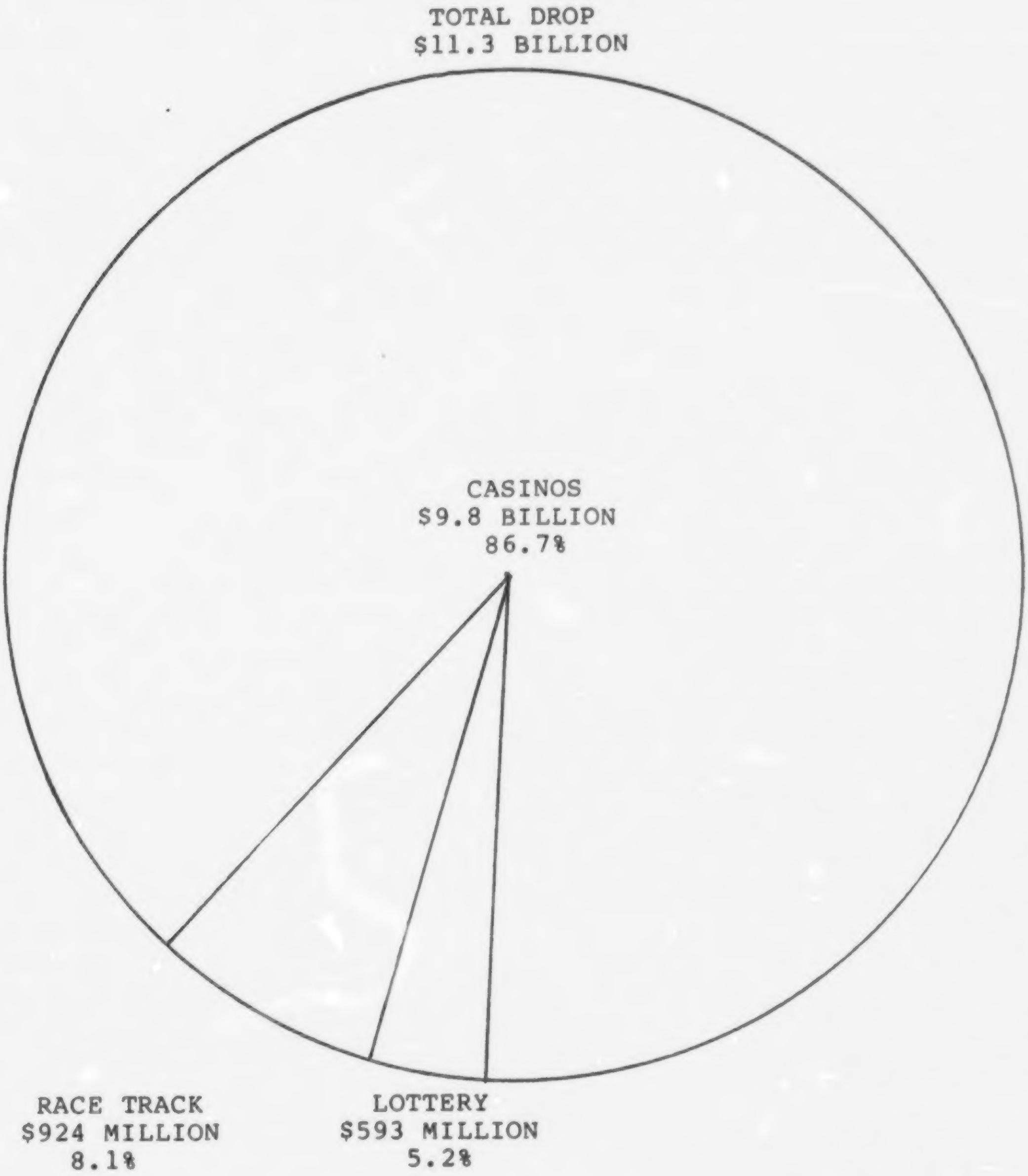
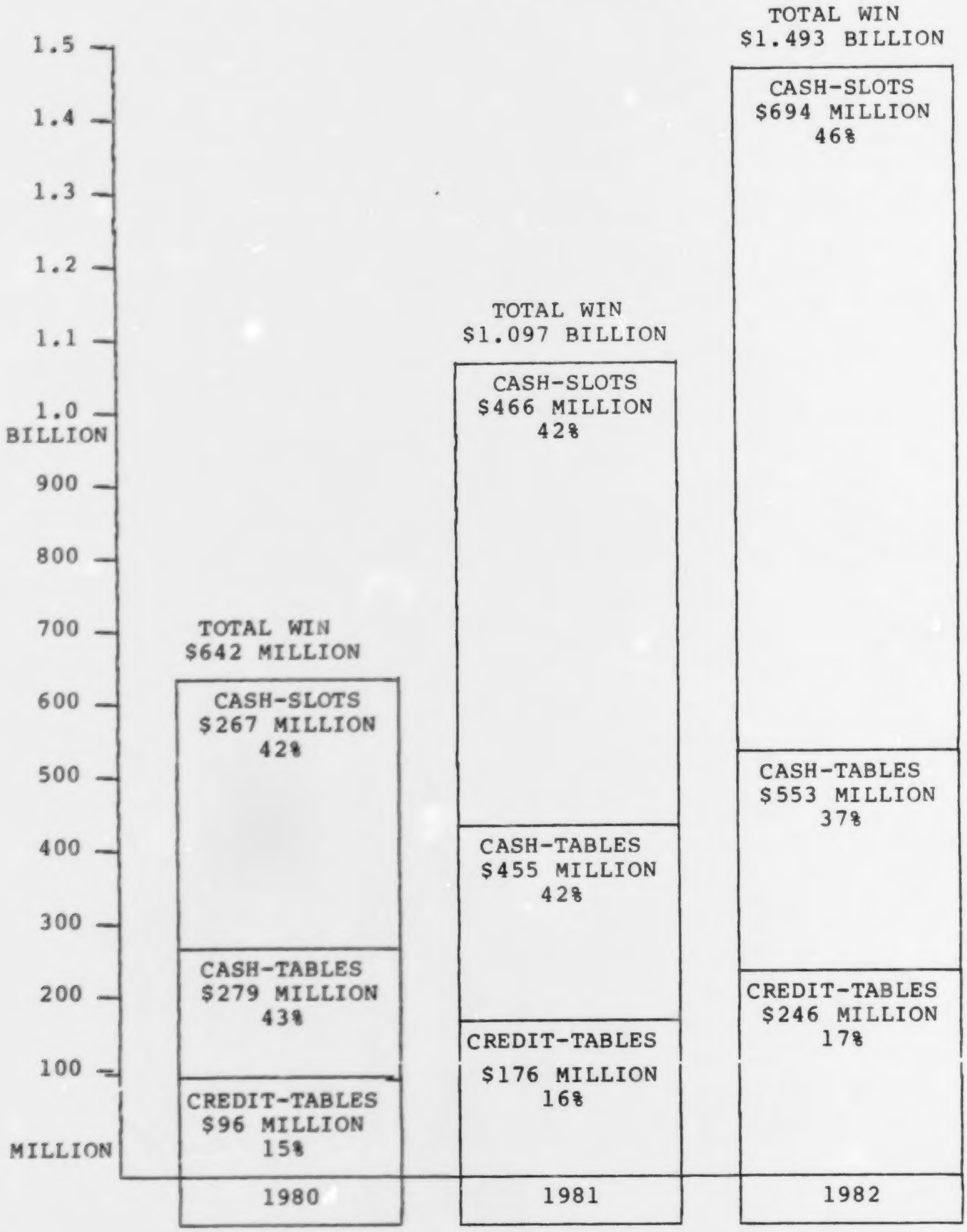


TABLE 2

N.J. LEGALIZED GAMBLING ACTIVITY AND DIRECT BENEFIT TO STATE IN CALENDAR 1982

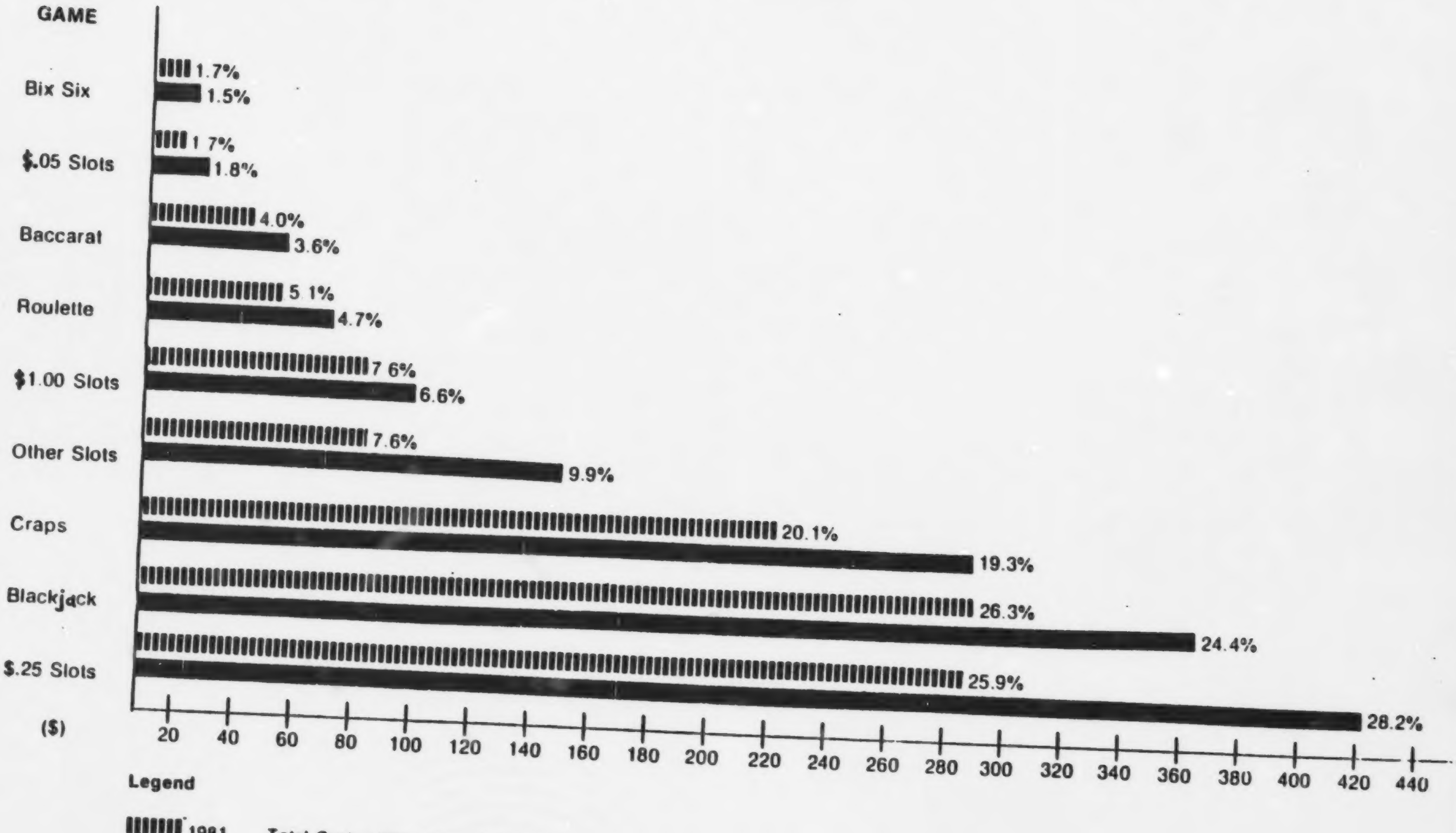
	RACING	LOTTERY	CASINOS
Handle	$924 million	$593 million	???
Drop	$924 million	$593 million	$9.8 billion
Credit Portion	0	0	($1.5 billion)
Direct Revenue Benefit to N.J.	$9.2 million	$250 million	$117 million
N.J. Direct Revenue As A % of Drop	10%	42.2%	1.2% of Drop (8% of win)

TABLE 3
CASINO INDUSTRY
SLOT WIN, TABLE WIN, TABLE CREDIT WIN



THE NEW JERSEY CASINO INDUSTRY
COMPARISON OF CONTRIBUTION TO TOTAL CASINO WIN BY AUTHORIZED GAME
FOR THE YEARS 1982 AND 1981

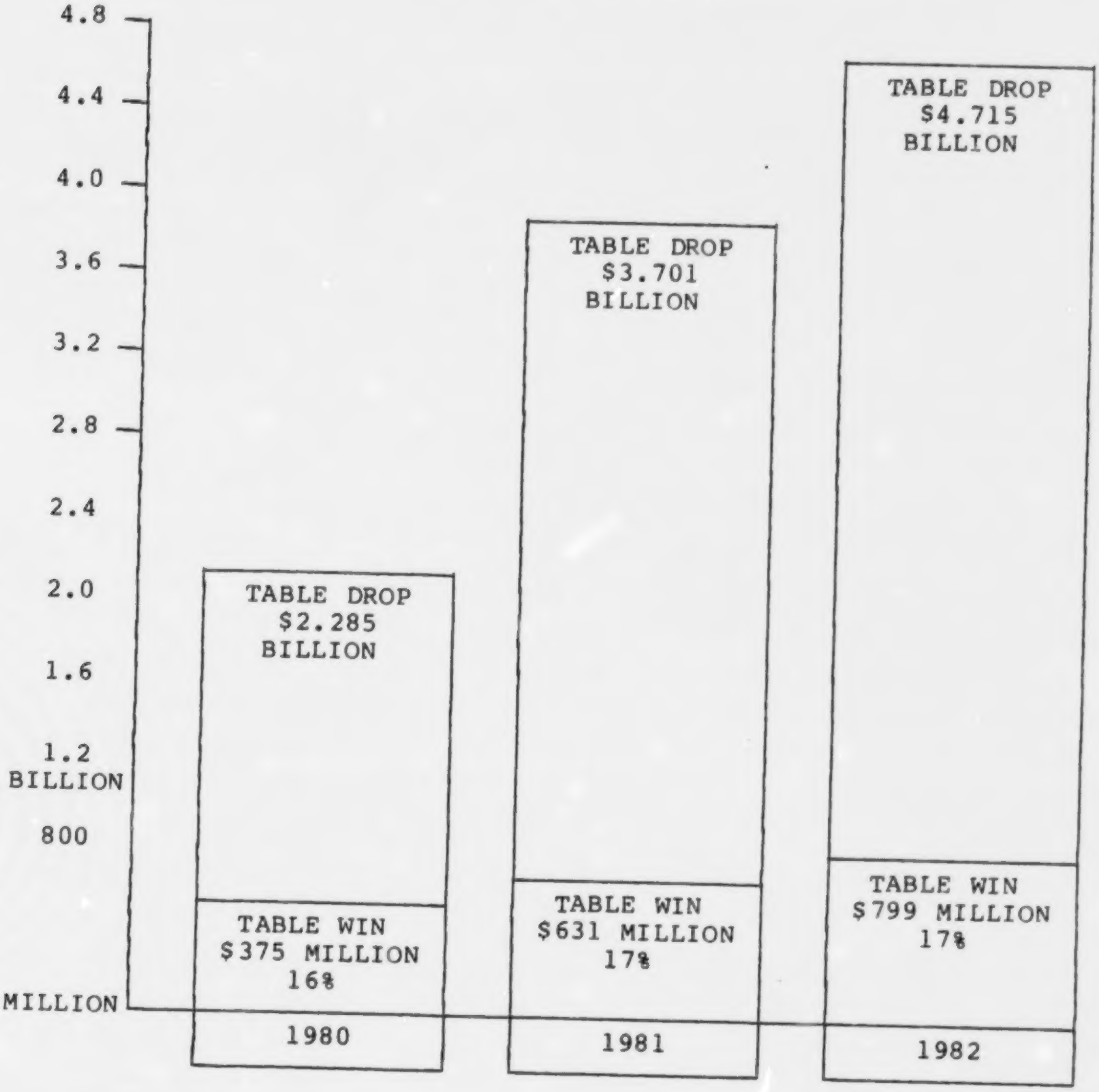
($ In Millions)



Total Casino Win 1981: $1,099.8
Total Casino Win 1982: $1,493.2

TABLE 5

CASINO INDUSTRY
TABLE DROP (CHIPS PURCHASED AT TABLES) AND TABLE WIN



V. NEW YORK: THE DECISION REGARDING CASINOS

1. Background

New York officials, like those of other States, seriously questioned entering the casino business, and have postponed a decision. An examination of the studies that led to that decision is informative because first, the investigation into the pros and cons was more detailed than in other States; second, the political pressures in favour of the introduction of casinos were very strong. Given these two factors, the rejection of casinos is all the more significant.

The New York State Legislature has been considering casinos seriously for approximately a decade. In 1972, Earl Brydges Sr., the Senate Majority Leader, recommended constitutional amendments authorizing all forms of State-operated gambling. A year later, according to Janice Prindle: "they then discovered they had practically mailed an engraved invitation to organized crime, and refused to give the constitutional amendment the required second passage in 1973".[123]

In 1973, Assembly Speaker Stanley Steingut revived the casino controversy by directing the New York State Legislature Institute at Baruch College, of the City University of New York, to prepare a comprehensive study of estimated direct revenue and other economic consequences of casino gambling. Steingut apparently believed that a "creditable" study (which included as principal economic advisor Nobel prizewinner Wassily Leontief) would promote casinos as a boost to economic conditions at the State and local government levels. Instead, the study estimated only modest gains while ignoring most of the major costs and concerns involved.[124] During this period, attempts were made by various interest groups and politicians to introduce casinos. These efforts were followed by investigative studies which differed in some respects, but uniformly concluded that:

1) casinos will not produce great revenue gains--especially if they are run by the state;
2) casinos encourage organized criminal activity--particularly if they are privately run;
3) casinos do not create jobs but merely shift employment from one industry to another.

The interest groups tended to quote revenue statistics based on Nevada casinos and multiplied the figures for each projected casino. Their argument also included the positive gains to New York of being "first" on the Eastern seaboard to establish casinos. Governor Carey, during this period, voiced strong support for the legalization. The facts known about casino gambling were largely ignored as the pro-casino faction campaigned for legalization, for what people like Monsignor Joseph A. Dunne, President of the Counsel on Compulsive Gambling, argue are the wrong reasons:

> ...for revenue, tourism, in short for possibly illusionary benefits to the state rather than to protect the gambler, and the public, from exploitation or corruption...[125]

No action was taken on the proposed Bill because there was no sponsor in the Republican-dominated Senate and the Democrats also were hesitant.

Even as the officials debated, organized criminals attempted to stake out areas of control of the new market. Between Brydges' 1972 proposal for casino legalization and during the voter referendums, the New York State Investigation Commission watched the jostling of organized crime personalities into Sullivan County--a once prosperous area in the Catskills mountains. This area seemed likely to be chosen for "revitalization" because it was being abandoned by the tourist industry and yet was close enough to New York City to attract large numbers of patrons. The number of hotels had declined from 500 to 80, with numerous foreclosures, tax sales and alleged arson for insurance. As Prindle states:

> Over a two-year period S.I.C. pieced the story together, uncovering a multi-million dollar real estate racket and conclusive evidence of connections with organized crime. At the center of a maze of fraudulent loans, suspicious exchanges of property and sham construction contracts, was Bernard Tolkow, the "boss" of a union of unskilled workers, Amalgamated Local 355. Tolkow managed the welfare fund for Amalgamated, which had been ousted from the United Auto Workers in 1954 along with its organizer and Tolkow associate John Diogardi, a convicted labor racketeer. The union fund was the source of the fraudulent loans, many of which were made to such reputed figures in the New York City underworld as Joseph Columbo, Angelo Bruno, Carlo Gambino and Joseph Palerno.[126]

2. New York State Studies Pertaining To Casino Gambling

In this analysis of the New York investigation into legalizing casinos, four studies will be briefly outlined:

A. 1975 - Easy Money: Report of the Task Force on Legalized Gambling

Two separate groups--the Twentieth Century Fund and The Fund for the City of New York--together formed the Task Force on Legalized Gambling. Their findings were presented in a document entitled Easy Money. This report presented five main conclusions:[127]

1) There is no justification for the highly publicized expectation that the legalization of gambling will provide an important new source of revenue for State treasuries. Although lotteries and other legalized gambling games can produce some revenue for the States, the amounts would not be large and they could be attained only through active and aggressive government promotion of legalized gambling.

> neither the early financial returns from the lotteries and from off-track betting nor the economics of the illegal gambling industry support the optimistic assumptions that are now so widespread. Even allowing for a wide margin of error and for differences in the volume of activity from one State to another, the Task Force is convinced that total revenues from comprehensive legalization of gambling would make only a relatively small contribution to State treasuries. Although legalization might expand the volume of gambling in the nation substantially, we do not believe that this expansion would be great enough to alter significantly our conclusion that the revenue yield would be minor.
>
> According to the best estimates available, Americans wager between $30 and $40 billion annually on the major illegal games--numbers, sports betting, off-track horse race betting, and organized casino games. Of that amount, the illegal operators retain approximately $3 to $4 billion before expenses--a gross profit well below that commonly supposed. Legal games seeking to capture some or all of the revenues generated by illegal games will face severe competitive disadvantages. Illegal winnings are not reported to the Internal Revenue Service. Illegal operators can offer bettors confidentiality, credit, telephone service, and other amenities. To offset these advantages and to compete successfully, legal games must offer bigger prizes, experience higher operating costs, and take lower profits. In the unlikely event that illegal gambling disappeared, legalization would work great changes in our society, but the amount of public revenue it produced would be, according to

our calculations, less than 1 percent of total government revenues.

Another question that must be asked about the revenue potential of gambling is, who pays? According to some observers, gambling is highly regressive in its impact, affecting the poor proportionately more than the rich. If that were the case, officials who propose to legalize gambling in order to produce revenue for government would in fact be merely advocating another form of regressive taxation. The evidence available to the Task Force was inconclusive on this score. Taxes on some forms of gambling, though not necessarily on all, may well be regressive.

Finally, the question has been raised as to whether gambling should be legalized in order to raise State revenues, or whether it should be regarded as an amusement or entertainment that the State should control quite apart from its revenue potential. The costs of operating and promoting gambling absorb a large percentage of the income that a given game may raise; hence gambling is an inefficient way to raise public funds compared to the low cost of collecting income, real estate, and other taxes. But if government control of gambling is seen as a public amenity, akin to operating a swimming pool, park, or museum, then the costs of its operations will necessarily be far higher than the costs of straight tax collection without being an inefficient way of raising money. It also is agreed that legalized gambling may produce social benefits in the form of jobs for the handicapped, veterans, and members of minority groups who are not readily employable.

After considering all the evidence, the Task Force believes that legalization of gambling will produce relatively small amounts of revenue and will raise it from the wrong people in the wrong way. We recognize that illegal gambling is big business in the United States, but it also is an exceedingly complex and sophisticated business that legalized gambling is unlikely to capture. Thus revenues derived

> from legalized gambling will be minor when compared to total revenues as well as in comparison with the profits from illegal operations.

2) Although legalization of gambling may be a useful weapon in combatting illegal gambling activity in some circumstances, it is no substitute for a broad and sustained assault on all aspects of organized crime. There is little evidence that legalized gambling will be able to compete effectively with illegal games to deprive them of much or all of their revenue; even if they did, organized crime would still have considerable capacity to engage in other illegal activities.

> *A policy of selective legalization, primarily designed to drive organized crime out of the gambling market rather than to raise revenues, could reduce the income and disrupt the operation of some crime syndicates*, at least temporarily. *But organized crime*, which demonstrated its ability to survive and grow after the repeal of prohibition, *is both resilient and resourceful. There is little reason to believe that legalization of gambling would bring about a substantial diminution in the activities of organized crime*.... Our analysis indicates that illegal gambling profits are smaller than they are generally believed to be but that they are nonetheless a very significant source of income for organized crime in some areas of the nation. Many law enforcement officials take the view that gambling revenues underwrite other more episodic activities, such as hijacking and traffic in narcotics. Other officials--a minority--hold that gambling is merely one of a number of major criminal activities. But there is general agreement that gambling is a regular source of income for organized crime.

3) Legalized gambling probably cannot simultaneously serve the objectives of both maximum gains in revenues and improved law enforcement. A policy designed solely to maximize public revenue from gambling may conflict with other policies in the public interest.

> Legalization is an effective law enforcement strategy only to the extent that legal games draw customers away

from existing illegal games. This objective requires a high prize structure, which means lower profits or revenues; otherwise, the game may attract novice players, but it will not draw established customers away from illegal games. Clearly, such a game is no solution for law enforcement problems.

4) The law enforcement benefits of legalization are more important than the revenue potential. But even though legalization of certain specific games may make a noticeable dent in the volume of illegal gambling, legalization of most forms of gambling--unless accompanied by greatly increased law enforcement efforts--will not eliminate illegal gambling operations.

The Task Force has examined the proposition that publicly operated games, if coordinated with law enforcement activities, can help drive organized crime out of the gambling business. Here again, experience suggests that, although legal games can reduce the profits of their illegal counterparts by offering higher prizes at equal convenience to bettors, it will be difficult to dislodge illegal operations simply by government competition. Off-track betting in New York has failed to do so, mainly because it does not offer significantly higher payouts or many of the amenities offered by illegal bookmakers. The same is true of daily state lotteries; they do not offer more attractive odds than illegal numbers games, and unlike the illegal games, they do not give players the satisfaction of being able to select their own numbers.

If legal games are made competitive, they may offer a useful outlet for the public's apparently irrepressible urge to gamble. But without a wider law enforcement commitment, entailing more arrests, more convictions, and harsher sentences for illegal operators, legal games are unlikely to drive out their illicit counterparts. Of course, increased law enforcement efforts are possible now, without legalizing gambling. The Task Force has not found that legalizing gambling has been accompanied by more aggressive efforts to enforce the law.

The revenue derived from illegal gambling is a principal source of police graft and political corruption. Illegal gambling operators regularly earmark substantial sums to bribe and suborn law enforcement officials. Like the cost of advertising for a legitimate enterprise, bribery can be considered a major recurring business expense. In some cities, corruption is pervasive, stretching from weekly payoffs for patrolmen to large political contributions for the election or appointment of judges. But gambling is not the sole source of official corruption, and legalization will not eliminate all graft. What is more, experience in this country and abroad demonstrates that the regulatory processes involved in legalized gambling are themselves subject to corruption.

The tendency of governments to create new low prize games such as daily lotteries, while permitting the de facto decriminalization of illegal games, has demonstrable defects--limited revenues, continued illegality, continued police payoffs, and increased hypocrisy.

A distinction must be made between areas where illegal gambling is a serious and urgent problem for law enforcement and areas where it is not. An area characterized by a high volume of illegal gambling run by members of the syndicate who are paying large sums for corruption of law enforcement officials has a serious gambling-related law enforcement problem. (Undeniably, illegal gambling encourages other criminal activity.)

Although the existence of any illegal activity creates law enforcement problems, an area with relatively little illegal gambling activity, run by purely local individuals with no connections to other criminal activities, is likely to

> have relatively less serious gambling-related law enforcement problems.

This point is important because it indicates that some judgement regarding the seriousness to the community may have to be made before government policies should be implemented. Illegal gambling activity, on a small scale, run by locals, perhaps should not, from a law enforcement perspective, be interfered with by the state since the alternative might not be no illegal gambling or only legal gambling, but rather a vacancy into which outside organized crime figures will move.[128]

> **5) The federal government should not engage directly in the gambling business. The Task Force is unanimous in opposing the initiating of federal gambling activities, such as a lottery. Fundamentally, any direct governmental role in gambling--city, state, or federal--raises serious questions about whether such activities are proper and appropriate. State and local governments are involved in gambling operations at present, but serious reconsideration of governmental participation in the gambling business is needed. If it is determined that some State or local gambling will be legalized for revenue or law enforcement purposes, Federal and State tax laws should be amended so that taxation does not penalize legal games in such a way that they cannot compete against their illegal counterparts.**

In looking at the question of how State legalized gambling should be operated, there was firm agreement that a direct State-run gambling enterprise could pose severe problems--not in theory but in the practical aspects of running such an industry. For example the authors conclude:

> ...a State government engaging in legalizing gambling requires a bureaucracy that, once established, acquires a life of its own. In addition to assuring the continuation of its own jobs and responsibilities, the bureaucracy will look for expansion of its jurisdiction--thus placing excessive and misplaced reliance on gambling activities for revenue production--instead of developing more effective and more equitable alternative sources of revenue.

The report acknowledges that there are two ways in which the State can be involved in the legalized gambling industry--it can regulate and tax private gambling operations, or it can run the gambling business for itself. The authors take the view that there are difficulties whichever choice is taken. They state:

> For some forms of gambling, particularly for sports bookmaking, government operation would be difficult, largely because of the inherent financial risks and the entrepreneurial skills required to run such enterprises efficiently. But if it chooses to license operations, the government must curb its demand for high taxes in order to give private licensees a fair share of the relatively thin profit margins that prevail in illegal games. In short, government would have to split the profits and, more than that, take a minor share. Otherwise, licensees would be handicapped in competing against illegal competitors, with a corresponding loss of revenue to the government.
>
> In some cases, legalization of gambling will produce varying amounts of revenue under different methods of operation. Government-owned and -operated casinos are likely to be less efficient in raising revenues than private casinos, because publicly owned casinos cannot offer the credit and other amenities available in privately owned enterprises. In fact, the government's revenue from a tax on the profits of private casinos might well exceed total profits from a state-owned operation. Yet privately owned casinos are more vulnerable to criminal influence. Thus, a policy designed to maximize public revenue from gambling may conflict with other policies in the public interest. Government must balance the greater direct revenue provided by private operations as well as the greater potential for rehabilitation of depressed resort areas and increased tourism against the greater risks of encouraging and enriching criminal elements.

The report emphasizes that the government should not advertise or promote gambling activity--perhaps particularly if the activity is State-run or if the State benefits directly from the tax revenue.

> Advertising of gambling is not only an unseemly but also an unnecessary activity for government to undertake. In order to be successful, a legal game must offer a larger return to a bettor than an illegal game. If the game provides a larger return, then it will need no advertising. If public sentiment strongly favors a legalized game, and no strong reasons against legalization presentthemselves, advertising by legal operators is wasteful and unnecessary. We do not think that government should support promotional activities whose effect is either to create new customers or to increase the amount of money that is wagered by players who are now clients of illegal operators. Promotion of gambling games by government should therefore be prohibited. Of course, this prohibition in itself would severely restrict the situations in which it would appear useful for a State to operate a form of gambling.

With specific reference to casinos, the Task Force concluded:

> The major argument advanced for legal gambling casinos is that they can provide a needed stimulus to depressed areas in need of additional tourist business. The example of Nevada is constantly held out, and voters in two States are currently being asked to approve establishment of casinos in their States. But there is substantial evidence that this kind of economic development is purchased at high cost.
>
> The central issue is the mode of operations. Publicly operated casinos almost certainly will not be able to offer the amenities which make Las Vegas, for

> example, so popular. These amenities include credit, junkets for big gamblers, free liquor or entertainment, and other attractive inducements. Successful casino operation is an intricate and sophisticated business, requiring highly skilled personnel; private operation offers definite advantages over public ownership and management. However, casinos have a history of attracting the participation of organized crime and thereby producing a difficult regulatory problem.
>
> In addition, it is not clear that the economic benefits from legal casinos are other than short-term, if that. The special situation of Nevada cannot easily be duplicated in New Jersey's Atlantic City or in New York's Catskills, and the evidence indicates that competitive forms of gambling can quickly nullify the temporary advantage obtained by the first community to set up a legal casino.

In the summing up, the report emphasizes:

> Legalization is not a panacea for the fiscal problems of State and local government: it will not by itself do away with criminal involvement, nor will it eliminate official corruption..."
>
> In sum, our study of gambling indicates that the current movement to extend legalization is based on false hopes and misconstrued evidence. It is not a healthy or promising trend in public policy. The Task Force has no dispute with the objectives of raising revenues for State and local governments from gambling and reducing the power and profits of illegal operators. But we are convinced that gambling is an inefficient generator of revenues and, in the main, a limited device for combating organized crime. For that reason, we have identified the difficulties involved in legalized gambling, and we have posed the hard questions that must be asked about every proposal that gambling be legalized in a community. We have proposed decriminalization of social gambling and legalization, with

> careful regulation, of charitable gambling.
>
> Although our recommendations may not square with the temper of the times, we believe they are strongly supported by the facts: as a revenue measure, legalized gambling raises relatively small amounts of money in the wrong way from the wrong people; as a law enforcement weapon, legalized gambling is no substitute whatsoever for a vigorous and sustained assault on organized crime."

B. 1979 - Final Report of the Casino Gambling Study Panel (Lynch Report)

After the Legislature of New York State approved three concurrent resolutions which proposed constitutional amendments legalizing casino gambling, Governor Hugh Carey appointed a Casino Gambling Study Panel--not to consider whether or not casinos should be legalized, but rather to make recommendations and suggestions for "legislative actions" to effectively implement casino gambling.

The report listed the aims of casino gambling. What is noticeable in this list is the absence of any mention of organized crime control or loss of revenue to criminal elements:[129]

a) economic competitiveness for tourism and convention markets;

b) economic development and revitalization;

c) casinos should remain auxiliary to New York's other tourist attractions, i.e., an added recreational attraction within an area rather than an attraction of themselves;

d) casinos should not proliferate in the State and their operations should be strictly licensed and enforced.

The Lynch Report identified certain geographical areas where the officials ought to decide by local referendum whether or not they should introduce casino gambling. Those areas were:

- the Catskills, Sullivan, Ulster and Greene counties;
- the Niagara Frontier including the cities of Niagara Falls and Buffalo;
- the city of Long Beach;
- the city of New York.

The study panel recommended that the casino hotels should be "privately owned and operated and subject to strict State licensing regulation and enforcement". The proposed control structure was similar to that which was implemented in New Jersey--a five member Casino Gaming Control Commission with four part-time members and a full-time Chairman designated by the Governor, and a special Office of Casino Gaming Enforcement which would be responsible for investigation and prosecution of criminal matters.

A twenty percent tax was recommended for the first five years, dropping to fifteen percent in the sixth year. Among the nineteen recommendations were a number of prohibitions.

1) no political contributions by casino hotels, their owners, officers or employees;

2) only limited advertising for casinos;

3) Casino Gaming Control Commission should not be empowered to issue a temporary operating license for a casino hotel;

4) no person employed by the Commission should be permitted to be employed by a casino hotel or related industry for four years after leaving the employ of the Commission;

5) in heavily populated areas of the state, casinos should not be permitted to operate in the day time, dress code and table minimum and other mechanisms should be adopted to discourage impulse gambling by the local population;

6) no more than forty casino hotels should be authorized in the first ten years.

It is significant that the Chairman of this Casino Gambling Study Panel, Dr. Gerald W. Lynch, has spoken out quite strongly against casinos. In a paper entitled "Casino Gambling: Its Corruption Potential," Lynch states:

> I am personally convinced that legalized casino gambling in New York would be a mistake, that no matter how it might be implemented, it will be corrupt...
>
> The problem is two-fold: there is too much cash money involved and there are too many ways to be corrupt.[130]

C. 1979 - Casino Gaming for New York State: The Potential Market and Implications for Economic Development (Reuter-Ruth Study)

This study by Reuter and Ruth was commissioned by the New York State Casino Gambling Study Panel (Lynch Report) to provide an estimate of the market for gaming in New York and an estimate of the impact of gaming on economic development, such as on employment. They stated that:

> The central finding is that the potential market is a very substantial one and that both the economies of the areas considered and the revenue of the State government could be significantly and positively affected by introduction of legalized gaming.[131]

The authors specified later in the report that:

> ...the estimates are not predictions of what will occur in a given time period, for much will depend on the licensing policies adopted by New York State, the siting policies of local governments, and events beyond the control of the State government. Instead, the estimates, presented in the form of ranges, suggest the maximum market that might be tapped in the long run if:
>
> 1) The various governmental authorities of New York States adopt relatively unrestrictive policies toward casino development; and

2) no additional neighboring jurisdictions (other than Atlantic City, New Jersey) enter the casino gaming market.[132]

In addition to this reliance on unrestrictive policies and near-monopoly control of the market, the authors used Nevada as the basis for estimating the gaming behavior in New York State. Using this form of data is understandable since that was the only American comparison available, however, greater emphasis and acknowledgement of the likely differences between the States might have served to clarify the hypothetical nature of the results. Therefore, the Reuter/Ruth estimates are correct:

IF we have unrestrictive policies;

IF no new casinos are opened in neighborhoods;

IF New Yorkers gamble as high a percentage of their income as the Nevada resident does;

IF the displacement (or substitution) of current consumer expenditures are as they were calculated--based, as the report states, solely on impressions since no data on the competitiveness of various forms of recreational expenditures was available.

In near contradiction of these required conditions, the authors mentioned as a final caveat that Massachusetts, Pennsylvania and the Province of Ontario all had intense lobbying for casino development. Also, they mentioned elsewhere in the report, but did not calculate into their estimates, the fact that Nevada's lack of non-casino alternatives and the legality of junkets to the Nevada casinos might encourage a greater amount of gambling than New York, in competition with nearby states and provinces could generate.[133]

In 1979, the campaign was on in New York for legal casinos. Arthur Kremer, Chairman of the Committee On Ways and Means of the New York State Assembly stated that:

> there is no question that casinos do attract a certain amount of crime. But crime already exists in New York State and elsewhere today and I have no reason to believe that casino gambling is going to cause a sharp upsurge.[134]

In addition, Kremer boldly stated what had previously only been indirectly referred to:

> If Atlantic City did not exist as a siphon for New York State revenues, the case for casino gaming might be less compelling.[135]

New York State officials felt pressure to have, if not the first casino city in the East, then at least the second. If New York could gain casinos before other States then it would have the benefit--and a large benefit it would be--of controlling a large segment of the market. The fear seemed to be that New York State would fall economically behind the neighbouring States and that these States would draw money away from New York.

D. 1981 - Report of Attorney General Robert Abrams in Opposition to Legalized Casino Gambling in New York State[136]

Perhaps the most significant study leading to the postponement of a referendum to legalize casino gambling in New York State was the report of Attorney General Robert Abrams. With extensive documentation from Nevada and New Jersey, Abrams specified three key factors which led him to conclude that casino gambling in New York State would not be in the public interest:

1. The evidence from Nevada and Atlantic City conclusively indicates that legalized casino gambling in New York would be accompanied by a debilitating upsurge of crime in areas where casinos are located.

Abrams quoted statistics from Atlantic City and comments by the local police, State police, arson squad and the Director of New Jersey's Division of Gaming Enforcement. He concluded that:

> ...the actual Atlantic City and Nevada experiences have conclusively demonstrated to me that legalized casino gambling, by its very nature, creates an environment in which crimes of all types will flourish. This means, in effect, that legalization of casino gambling in New York will increase significantly the level of crime in those areas of the State where casinos would be located. With law enforcement agencies and other elements of the criminal justice system barely able to hold their own against existing criminality, it is difficult for me to conceive how they can be expected to handle the tremendous increase in street and petty crime that will accompany casino gambling.[137]

2. Gambling casinos are a magnet for organized crime and New York lacks the sophisticated law enforcement system required to keep organized crime out of the casino gambling industry. [138]

In relation to casino operations, Abrams looked at organized criminal infiltration into:

(i) real estate - it is claimed in the report that one Canadian organized crime group has bought 7-8% of the land in the Atlantic City area through dummy corporations. Arson has facilitated the clearing of some of the land for casino development.

(ii) labour unions - the Atlantic County Prosecutor is quoted as saying: "Based on what we have seen, the most likely target for monopolistic control, by organized crime, of a significant segment of the casino economy would be through these unions.

3. Legalized casino gambling poses a danger to the integrity and credibility of government institutions and public officials. [139]

Abrams quotes from a New York Times editorial:

> ...there's no telling anymore who is really regulating whom...the casinos simply have too much money to make and spend to avoid the legal corruption of government.[140]

For example:

a. Former head of New Jersey's Gaming Enforcement Division on June 17, 1980 called "official corruption" a bigger threat than organized crime in Atlantic City..."I am frankly shocked New Jersey is as much for sale as it is."

b. Fifty local officials and government employees in Atlantic City own stock in casino gambling companies or involved in property for casino use.

c. Five of the nine members of Atlantic City's Planning Board have invested in, or had property or financial dealings with, the casino industry...the Planning Board Chairman will participate in a $6 million profit on the rezoning by the Board of a 2.2 acre tract for casino use.

d. Casinos have employed at least 16 former high-level State officials, i.e., former Budget Director, Director of the Division of Criminal Justice, Chairman of the State Racing Commission, former Attorney General, Deputy Attorney General, Counsels and Assistant Counsel to the Governor.[141]

VI. THE SEARCH FOR AN UTOPIAN CASINO MODEL

If casinos are demanded and neither Nevada nor New Jersey offers a safe, profitable, ethical model to be emulated, it may be necessary to look beyond the United States for alternatives. Decisions must be made not only on how the casino will be regulated, but also on who will be in control.

1. State versus Private Control: Problems of State-Owned Casinos

In the New York debate over casinos, the New York Assembly was divided over how they should be operated. The Democrats favoured State-operated casinos. They argued that the State would be better able to keep out organized crime. The Republicans favoured privately-run casinos on the grounds that they would be more efficient and therefore more profitable for revenue purposes. In 1978, the legislature approved three versions of constitutional amendments that would legalize gambling:

> One would legalize gambling in resort areas with the casinos to be run by the state. A second would legalize resort area casinos run by private enterprises. The third would authorize both publicly and privately-operated gambling operations throughout the state. All three amendments specified that the gambling would be subject to local approval.[142]

In addition to the two alternatives (and a combination) which New York pondered, a third choice was raised by Skolnick who argued that due to the inter-state clientele for casino gambling, and the 1977 legislation permitting Nevada licensees to conduct gaming operations outside Nevada, Federal intervention is inevitable and perhaps ought to be even more encompassing. As Skolnick states:

> ...it would be fairer and more desirable if control over legal casino gambling were recognized as a national issue. It is rhetorically attractive--but ultimately inconsistent--to suggest, as the National Commission on Gambling does, that because State agencies can be flexible and responsive to local demands, gambling control should be pre-empted by them.[143]

A. Issue of Corruption

The strongest argument in favour of State operated and owned casinos is the view that the State would ensure that organized criminals would not be involved. Rose argues that there is little reason to believe that State employed casino operators and dealors would be any more honest or competent than private employees. In addition, officials within a State bureaucracy might be able to allow illegal activities to go undetected, unreported and unprosecuted longer for various self-interest and political reasons:

> Any scandal that hits a government-owned casino would naturally become a political problem for State leaders. Politicians know that a quasi-governmental body may protect the State from legal responsibilities but not from political scandal.[144]

A related factor has to do with hiring within a government agency. If employees of a State-owned casino would be protected by civil service regulations the standard of evidence required to fire an employee suspected of dishonesty might be difficult to obtain. This issue was acknowledged by Governor Carey in New York when, at one point, he favoured State casinos with private operators.[145]

B. Conflict of Interest

State-owned casinos would appear to present the ultimate test of an agency's ability to suppress its own self-interests in the name of the public good. Operating a casino is by necessity a business proposition-- if it fails to make money it would become a drain on the State and would be closed. In order to succeed, it would need to grow and compete. This would be essential even without revenue production as a chief aim. Given the dynamics of operating as a successful business plus the likely secondary (or primary) interest in revenue, it would be hard to assure that the State could also serve as an adequate regulating agency. As Rose states:

> Pressure for expansion would bring the State operation into direct conflict with the control issues of limiting adverse side effects and preventing undue economic harm to established interests. Quick expansion would also lead to more problems of discretion, control of corruption and incompetence because the agency would have to rush through applications for key casino positions or switch to a system of at least partial operation by private lessees.[146]

C. Funding For The Facilities

In both New York and New Jersey, it was argued that State owned casinos would prove to be less successful than private casinos because the hotels housing the casinos would not spend the necessary money required on the facilities since they would not directly gain from the successful casino operation. If the State owned casinos were to be housed in State buildings or State hotels, again it was believed that the necessary extravagence would not be forthcoming. The State-run enterprises might be seen as amateur operations in comparison to private enterprises.[147] The State would also have trouble competing with the level of compensation earned by the top casino managers and executives of private casinos which pay large salaries and benefits for skilled casino operators.

D. The State as Casino Boss

Without becoming entwined in a debate regarding the morality of gambling, there is a more neutral argument as to whether or not the State ought to actively encourage any form of consumption. There are additional ethical issues involved in legalizing a previous vice and then making a State monopoly of the newly legitimate industry. High profits received from this monopoly are questioned particularly if they are seen to be derived from those segments of the population less able to pay. The regressive nature of casino gambling in terms of the local population becomes more critical due to the likely inability of a State-run casino to forbid participation by non-tourists because of the various due process or rights protections. Puerto Rico attempted quite unsuccessfully to restrict casino gambling to tourists and England indirectly attempted to exclude the poorer classes with various regulations regarding dress and location of clubs, etc. These restrictions would not be applicable in populated areas within North America such as New York, New Jersey and areas in Canada within close proximity to larger cities.

The New York Casino Gambling Study Panel argued that a state monopoly of all casino hotels would "preclude the essential economic ingredient of competition to the detriment of the optimum development of the industry".[148] This fact, along with inexperienced operators and management, plus government supplied facilities would increase the economic risks of the State operation.

Skolnick claimed that Nevada rejected State-run casinos not because of any moral feeling against gambling but because of a moral reaction against socialism, i.e., the argument being that a lucrative industry ought to be open to competition and market conditions rather than protected and controlled by the State.[149] The conclusion of the New York study panel was:

> ...should the people vote for casinos in New York, the proper and most significant role of government is to assure that the 'house' perform all of its functions in accordance with the law and its license requirements, and not to seek a device whereby the state can become the 'house'.[150]

2. British versus American Model

Some significant distictions exist between the so-called Nevada "free enterprise" model and the New Jersey "tourist-area revitalization" model; however, both of these types of casinos operate primarily for the revenue that can be generated--either to be used for individual profit plus taxation and employment as in Nevada, or resort rejuvenation, taxation and employment as in New Jersey. The English system which Rose refers to as "strict social control club model"[151] is based on the view that gambling is a necessary evil that cannot be ignored but definitely ought not to be encouraged. The 'club' is seen as a way of restricting a vice to a particular area and class, so as not to allow the 'social problem' to spread. If the gambling clubs closed due to lack of business the State would not be concerned and in fact the closure would be viewed positively.

Any country that is now considering casino gambling and is questioning what form of control to establish, must realize that some of the apparent "alternatives" may not work in a particular society. Each of these "models" fit into a set of societal attitudes and values which may be reinforced by economic pressures. A model cannot therefore, be selected free from these factors.

A. Economic Constraints

Skolnick emphasizes the powerful dictates that economic motives and pressures can exert upon casino gambling decisions.[152] Skolnick states, in reference to the recommendation by the Commission on the Review of the National Policy Toward Gambling, that States considering legalization might look to England rather than Nevada as the model:

> In theory that sounds quite sensible. In practice it woefully underestimates the force of the economic motives and pressures associated with legal casino gambling where revenue is the reason for legalization...the real question is not whether to adopt the major outlines of the English model, but whether in the American context, local governments can realistically contemplate such a choice.

He concludes:

> the combination of a revenue-producing motive, coupled with the power of already existing economic interests in the casino gambling industry, added to the cultural and legal constraints of American society will ensure that if ever casino gambling is adopted by an American State, the Nevada model--with its economic imperatives--will dominate.[153]

B. Legal Constraints

In addition to economic imperatives, the traditions of the society in terms of due process and citizen rights may place legal restraints on the regulators of the proposed casinos. The arbitrary powers granted to the British Gaming Board to make secret, undefended, unappealable decisions, would likely fall well outside of any bounds of due-process in North America. Skolnick states:

> Given its autonomy and its great power, it is frankly recognized among members and staff that the British Gaming Board under the 1968 Act constitutes the most autocratic British institution since the Star Chamber.[154]

Some of the key features to this autonomy--albeit paternalistic autonomy--would include:

1. the gambler must be protected from his own impulses -- no one is allowed to gamble for the first time in a British gaming club without formally applying, in writing, in person, 48 hours before game time.

2. no credit - personal cheques are accepted but each cheque written must go through the bank even if the gambler wins and is, therefore, able to buy back his cheque. The argument for this is that there is social embarrassment attached to having to write cheques for gambling purposes--particularly if more than one cheque goes through in one evening. It implies that the individual is gambling more than he himself anticipated and, therefore, may be seen as a poor credit risk by his bank.

3. casino gaming clubs are not permitted in working class districts in London and require payment of a 'club' membership fee of between $10 - $100, plus this membership must be "sponsored". These are clubs therefore, that are designed to exclude certain segments of the population.

4. the Gaming Board has unchallengeable power in terms of:
   - licensing decisions;
   - decisions regarding violations;
   - control of entry;
   - discipline within the club.

5. - no junkets are allowed;
   - no advertising;
   - limited club hours;
   - no alcohol is served in gaming rooms;
   - no entertainment;
   - no tipping.

Canada might select the English format and then discover that legally the same type or degree of casino control might not be possible. In addition to the rights that Canada has entrenched in the constitution, North America might neither tolerate the blatant attitudes inherent in some of the British control strategies, nor trust the officials to be honest and above corruption in a system in which the regulators are not themselves regulated. The following section looks at legalized gambling in England in greater detail.

VII. LEGALIZED GAMBLING IN GREAT BRITAIN

1. Introduction

Gambling, in its various forms, is popular in Great Britain. In a sample of adults aged 18 and over, 94%, representing some 39 million people, said they engaged in some form of gambling. Most (63%) of those surveyed confined their gambling to an occasional bet on a major race or to buying a raffle or a lottery ticket.[155] British law permits various forms of commercial gambling under strict legal obligation. The main forms of legal gambling are: *Gaming* (includes bingo, slot machines, card games, and casinos); *Betting*, (horse and greyhound races, and soccer games; *Lotteries*.

The nature and extent of gambling has changed greatly since the *Gaming Act 1968*. It was estimated that in 1972 about £2,350 million was wagered. The amount of money lost through gambling was about £397 million. The highest proportion was staked on horse-races, (£928 million) followed by slot machines (£260 million), casinos (£225 million), football pools (£200.6 million), and finally bingo (£184 million). The following chart presents the figures.[156]

General betting	(£million)
1. Off-course bookmakers:	
(a) Horse-racing	928.1
(b) Others (dogs, cricket, boxing, Miss World, elections, etc.)	309.4
2. On-course bookmakers	120.1
3. Horse-race Totalisator (on and off-course)	26.1
4. Dog race Totalisator (on-course)	58.6
5. Football pools (including fixed odds)	200.6
	1,643

	(£million)	
Gaming		
6. Casinos	225.0	
7. Bingo	184.0	
8. Machines	260.0	
		669
Others		
9. Prize bingo, competitions, lotteries, etc. (estimate)	38	
	£2,350 m.[157]	

The Annual Reports of the Gaming Board show sustained growth of casino gambling from £225 million in 1972 to £930 million in 1979 and revenue for bingo increased from £184 million in 1972 to £456 million in 1980. The following chart indicates the growth from 1972 to 1980.[158]

Money Staked in Casinos

Year	£m.
1972	225
1973	297
1974	351
1975	477
1976	680
1977	727
1978	919
1979	930

Revenue from Bingo Halls

1972	184.0
1976	309.60
1977	327.56
1978	367.50
1979	405.72
1980	456.02

2. Gambling Policy in Great Britain: The Attitude Towards Gambling Activities

British public policy towards most types of gambling activities implies that they are undesirable; should not be promoted; and, if allowed at all, must be carefully regulated and controlled so as to guard against fraud, cheating, and other forms of corruption and social vices. In contrast to U.S. jurisdictions such as Nevada and New Jersey, the British are relatively uninterested in the revenue potential of gambling taxes. There is an apparent adversion to raising government revenues from activities which are regarded as being socially evil and disruptive. British gambling laws are therefore not intended to provide new tax revenues. The primary purpose of the legislation is to control the types and amount of gambling and thereby reduce the harmful effects upon British society.

The Gaming Board for Great Britain has made its intentions clear in its 1st annual report:

> ...the main motive for allowing legal commercial gaming in Britain is to make the law enforceable. This underlies the need for a strong control.[159]

The prevailing attitude that most varieties of gambling activities are undesirable has profoundly influenced the substance of British gambling legislation.

3. Recent History of British Gaming Law

Before 1960, the British attitude towards gaming was expressed in 19th century laws which in the context of modern society were obscure, illogical and difficult to enforce. Legal gambling was confined to the circulation of football pools for credit, and to cash betting on horse and dog races at properly licensed premises. The use of any revenue, or loitering in streets, for the purposes of betting and gambling, or for the promotion of cash betting was prohibited. Playing games for stakes was not unlawful. It was brought within the ambit of the criminal law either by reason of the game per se being unlawful, or by being carried out in a common gaming house or in a public place.

Neither aspect could be clearly defined, nor could the laws be efficiently and impartially administered. There was open toleration of bridge and whist clubs and a plethora of temporary gaming stands, which together made a mockery of the gaming laws. As the Chief Magistrate of London stated before the Royal Commission of 1949-51, "it is practically impossible for the ordinary man to know what the law is".[160]

A. The Royal Commission (1949-51) on Betting, Lotteries and Gaming

In the face of the sustained growth in gambling, particularly illegal gambling, the British Government appointed the Royal Commission (1949-51) to investigate and report on the state of gambling and gambling law. The main concern of the 1949-51 Commission was to indicate new principles of law to replace the outdated 19th century legislation. The Commission prefaced its report with the following words:

> we do not think it could be denied that there are many amusements which, if they took the place of gambling, would leave the gambler both a happier and a better man....no sensible man could but wish that gambling played a less prominent part in the life of this country than it does.[161]

Despite this blanket disapproval of gaming, the Commission reasoned that overtly restrictive legislation was not justifiable or wise. The Commission saw the spread of gambling is one of the symptoms of an age in which people have more leisure and cannot, or do not know how, to make good use of it. It reasoned that the appropriate remedy was not restrictive legislation, but education and the provision of alternative recreation facilities.[162]

The Commission argued that three basic principles would have to be accepted if reformed gambling legislation was to be successful. The principles were: there should be a strict control over commercial gaming, and licensing or registration of all who provided such facilities; the law should apply fairly to all sections of the community; information should be provided to the public about the extent, and conduct of the various forms of gambling.[163] They believed that the main problem with the old legislation was that it made illegal many innocent forms of domestic gaming, while remaining hard to enforce against serious commercial gaming. The enforcement of the law depended upon the discretion of the police, and the situation that evolved was that harmless activities were uncontrolled because the police tolerated them, and harmful activities were often ignored because under the legislation they were very difficult to prevent. Thus the long history of unenforced and unenforceable gaming law.

The Commission noted that a social habit as deeply ingrained as gambling could not be effectively prevented by overtly restrictive legislation. It reasoned that such an approach would encourage police reticence to enforce illogical and unreasonable legislation, and such toleration of illegal practices would lead to disrespect for the police and for the law. The Commission, believed that the principal object of gambling laws should be to prevent individuals from being induced to play for high stakes for the profit of the gambling promoter, i.e., commercial gambling. It noted that commercial gambling combined a spirit of competition, a rapidity of turnover, and the excitment of chance. These conditions result in a strong incentive for the player to stake beyond his means.[164]

The Commission identified three particular prohibitions as the basis of reformed gaming laws. There should be a strict prohibition against:

1. games of unequal chance in which the house has an advantage against the players;
2. charges for gaming;
3. levies on stakes or winnings.[165]

B. Betting & Gaming Act 1960 and Betting, Gaming and Lotteries Act, 1963

The Betting & Gaming Act 1960 was enacted in response to recommendations of the Royal Commission's of 1949-51. (The Act was later consolidated with other legislation in the Betting, Gaming & Lotteries Act 1963, which remains the major statute controlling lotteries and the different forms of betting on horses, greyhounds, sports events, etc.). Most of the old statutes relating to gaming were repealed. The Act was intended to control the growth of illegal gaming by allowing legal gambling within a regulatory framework. Gaming as a social activity in genuine members' clubs was to be permitted, but commercial exploitation of gaming was to be regulated and controlled. Gaming would only become unlawful if it violated the rules suggested by the Royal Commission's. There could be no games of unequal chance (the house must not have an advantage against the player); no charges for gaming; no levies on stakes or winnings.

The 1960 Act was badly drafted and contained many loopholes. The Act failed to distinguish between members' clubs (such as sports clubs, social clubs, working men's clubs) operated purely for the benefit of members, and commercial clubs, which, were operated primarily for profit. Exploitation of the loopholes led to the proliferation of commercial gaming and bingo clubs and to gaming activities in drinking clubs, cabaret clubs and restaurants. Many people were introduced by promoters to casino games which were conducted under conditions of minimum supervision with no standard rules of play. Gamblers were being exploited, and it was evident that criminals were drawn to the operation of casinos by the easy money.[166] Large profits were made on bingo (an equal chance game) by charging substantial entrance or session fees.

Operators of Commercial casinos devised ingenious methods to get around the equal chance rules. In some clubs, for example, high charges were imposed for each shoe of chemin-de-fer, which in some cases amounted to £20 for approximately half an hour of gaming. Other banker games, such as roulette, blackjack and craps (dice), were also provided commercially with varying devices to try to make these inherently unequal chance games equal ones.[167]

In addition to the loopholes, other problems plagued the enforcement of the statute. There were inadequate restrictions on advertising and the police had no right of entry to the clubs. Further, there were no adequate provisions to prevent unidentifiable and often criminal organizers and promoters from gaining control of casinos and clubs.

The Royal Commission 1978 saw the results of the 8 years of the 1960 Act in the following terms:

> In 1968 the state of the casino industry was thoroughly alarming. ...Loopholes in the law made casino gaming so profitable for the proprietors that over a thousand casinos sprang up all over the country. Citizens whose interest in gaming might never have gone beyond a Royal British Legion whist

> drive were being introduced to the delights of roulette and chemin-de-fer. Worse still, the industry was being infiltrated by criminals and other undesirable characters.[168]

C. The Gaming Act 1968

The massive development of commercial gaming (there were over 1,000 casinos in 1967) that occurred under the weak controls of the Betting and Gaming Act 1960 led to considerable public and Parliamentary disquiet. One government report had the following perspective:

> The gaming scene in Great Britain was a hotch potch. It had grown up uncontrolled and consisted of gaming side-shows in bingo halls; gaming in card clubs devoted to bridge and poker; gaming in betting clubs; gaming in drinking clubs; gaming in cabaret clubs; gaming in restaurants and gaming in casino clubs of all shapes and sizes. A feature of the development was the large number of restaurant cabaret clubs which relied on gaming to subsidize expensive cabaret artistes. The mix of dancing, cabaret, drinking and gaming created an undesirable temptation to young people and an unnecessary confusion. The Board received substantial evidence that the demand for gaming was stimulated by the big name attractions of artistes and the availability of inexpensive meals and dancing.[169]

The need to reduce the extent of commercial gaming and to control gambling operations led to the passing of the Gaming Act 1968. Experience with the 1960 and 1963 legislation indicated that gaming control legislation should be directed at the forms of gaming which were open to commercial exploitation. The framers of the Gaming Act 1968 recognized that commercial gaming had developed to the extent that it could not be suppressed, but it should be subject to strict regulation and control.

The Act established a strict yet flexible apparatus capable of curbing all forms of gaming which were liable to be commercially exploited or abused, to reduce drastically the numbers of commercial gaming clubs, and to ensure that other games such as bingo, bridge, etc. were not exploited by commercial gaming promoters.

4. Control of Gaming in Great Britain

A. Enforcement Under the Gaming Act 1968

The observations of Lord Rothschild on the difficulty of enforcing gambling legislation are worthy of repetition:

> From the standpoint of enforcement, gambling legislation has had a checkered and unhappy history, starting with the attempt to deprive the public of opportunities to engage in forms of gambling, notably off-course betting, which they clearly wanted and insisted on having whatever the law might say. The folly of this was recognized in the Betting & Gaming Act 1960 which established betting offices. Another lesson painfully learned and applied in the Gaming Act 1968 was the difficulty in controlling activities from which there were large amounts of money to be made by those astute enough to find ways round the legal obstacles, by relying solely on statutory provisions which were not backed by regulation making powers.
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> ...a lesson which it seems has still not been learned, however, is the danger of granting concessions to particular groups or interests without providing adequate machinery for supervision, an omission which has often led to the abuse of the privileges or their extension well beyond the original intention before the authorities become aware of what is happening. Developments of this kind bring the law into contempt. We are sorry to say that the lotteries legislation passed as recently as 1975, and the regulations made under it in 1977, display just this sort of laxity.[170]

Enforcement is the responsibility of the police, but the Gaming Board Inspectorate also is given some enforcement authority. The police and the Inspectorate are given unrestricted rights of entry into the licensed commercial gaming clubs with far reaching powers to inspect equipment, records, and other relevant documents. At the same time it is an offence for any person who holds a license under the Act, or for any person acting on behalf of a license holder to refuse admission to an inspector (constable) who demands admission to the casino to inspect the premises or equipment and machines found on it, or refuse to produce any book or document under his control which relates to the premises or refuse to furnish any information related to the premises which the inspector (constable) requires.[171]

Search warrants may be directed to any constable by a justice of the peace when there are reasonable grounds for suspecting that an offence under the Act is being, has been or is about to be committed on the premises. With a warrant the constable may enter (with or without inspectors) with force if necessary, at any time within 14 days from the time of issue. An inspector (constable) who enters under the authority of a warrant may seize and remove any document, money or anything whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under the Act, and arrest and search any person found on the premises whom he has reasonable cause to believe to be committing (to have committed) any such offence.

(i) Restrictions Upon Gaming Under The Gaming Act 1968

The Act established a complete ban on gaming in streets and almost all other places of public access, but did not absolutelyprohibit any form of gaming. It defined gaming by different categories, and required facilities offering commercial gaming and the more serious forms of gaming to submit to rigorous licensing, registration and operational control.

No money or fees may be charged for taking part in gaming that occurs outside registered or licensed clubs. No levy may be assessed on stakes or winnings from such gaming. In other words, when gaming takes place outside licensed or registered clubs, no commercial charges may be assessed. Commercial gaming is restricted to licensed or registered clubs. Further, no gaming is permited which involves playing or staking against a bank, or where the chances in the game are split unequally among the players. However, if the gaming is private gaming--i.e., it takes place on a domestic occasion in a hostel, residence, or private dwelling, primarily among residents--then the restrictions on banking games and unequal chance games do not apply.

The restrictions are supported by strict penalties. The penalty on conviction for dealing in an unlicensed casino is an unlimited fine, or imprisonment for up to 2 years, or both. The penalty for street gaming violations is a fine of only £50 or less, because street gaming or gaming in other public places was not originally thought to be as serious a matter as illegal casino gaming. In contrast to the original supposition, however, the Royal Commission (1978) recommends that street gaming offences receive more severe penalties because there is serious and wide abuse of the prohibitions.[172]

Two types of licenses are granted to commercial gaming clubs:

(a) General licenses - Clubs with general licenses may provide all gaming facilities authorized by the Act and its Regulations, but may not provide bingo.

(b) Bingo only licenses - Clubs with bingo only licenses are prohibited from providing any gaming facilities other than those for bingo.

(ii) Bingo Clubs

The rationale for the separation of bingo from casino gaming is to preserve bingo as a "neighbourly" game. There are restrictions on bingo operators to ensure that the game is not adulterated and abused as it was under the Betting and Gaming Act 1960. Under the 1968 Act, there are restrictions on the amounts which may be charged for admission and participation. Except for a government bingo duty, all money staked on bingo cards must be returned to winning players. Bingo clubs may not provide credit to players.

(iii) Commercial Casinos

The more important restrictions placed by the Act upon commercial casinos may be summarized as follows:

(1) participants must either be members of the club or genuine guests of members, and membership becomes effective only where an application has been made out at least 48 hours before participating in gaming;

(2) persons under 18 are forbidden in gaming casinos;

(3) casinos are prohibited from allowing any form of credit to members or guests, but they are allowed to cash cheques in order that a participant begin playing. If the casino cashes such a cheque it must then deliver the cheque to a bank for payment or collection within two banking days;

(4) there must be no internal access to premises used for gaming from any other premises;

(5) gaming clubs are forbidden to advertise except on their own premises;

(6) no one is allowed to play on behalf of someone not present in the casino or club at the time of the gaming;

(7) the holder of a casino license may not play nor may anyone acting on his behalf or employed in the casino;

(8) no person may be employed in a gaming function in a licensed casino or a registered club unless his employment has been approved by the Gaming Board.

The types of games which may be played in commercial casinos are regulated by law. Bank games--baccarat, blackjack, chemin de fer, craps, punto banco and roulette--are subject to regulations stating the rules under which the games are to be played. The rules allow the casinos to make a reasonable profit and are in intended to prevent exploitation of the games by the casino operators. Blackjack and craps are allowed only in a form that does not offer unreasonable advantage to the bank; roulette may be played only with one zero, rather than two, again to exclude an overwhelming advantage to the bank.

A casino may provide facilities such as card rooms for members to game among themselves, but bank games are not allowed. The casino may establish a charge to participants for the provision of such facilities, but the details of such charges must be given to the local licensing authorities, and the casino is restricted in the frequency with which it can attach such charges.

(iv) Gaming in Registered (Non-Commercial) Members' Clubs

Some unequal chance games are permitted in registered (non-commercial) members' clubs. Participation in gaming at such clubs is limited to members and their guests. Guests may not be charged for their participation. Non-commercial members' clubs that provide facilities for games of unequal chance, or wish to charge participation fees (a minimum fee is regulated) for games such as bridge, must be registered through the Gaming Board and the local authorities. Participation in gaming at such clubs is limited to members and their guests; guests may not be charged for their participation.

Chemin de fer and black jack are the only bank games permitted in registered clubs, and the club is not allowed to hold the bank. There are no restrictions upon the equal chance games members may play among themselves, but under no circumstances may the club itself play. A registered club may take money for provision of gaming facilities only by means of a single fee (set by regulation) per day per member in respect of all games in which the member participates.

(v) Slot-Machines - Part III of The Gaming Act 1968

The sale and use of slot-machines is closely regulated by the Gaming Board under the provisions of the Gaming Act 1968. Until 1960, slot machines for playing games of chance were illegal in Britain. However, the law was not, strictly enforced by the police and prize machines were operated widely in arcades and halls.

The Betting and Gaming Act 1960 legalized slot-machines for the first time but distinguished between slot-machines, where the main incentive for playing was to make money, and amusement machines, where the entertainment value was the incentive. Although both machine types were subjected to a regulated maximum use charge, slot-machines of the first type were allowed to offer unlimited cash prizes. Not surprisingly, the legalization of slot-machines and the lack of limits on cash prizes led to a rapid increase in the supply of such machines. Slot machines, popular and profitable "lent themselves to protection rackets under which club proprietors were compelled, by means of threats, to install them on profit-sharing terms".[173]

The abuses resulting from the 1960 Act dictated the nature and severity of the restrictions applied in the Gaming Act 1968. There is a requirement that those who sell, supply or contract to maintain machines within the meaning of the Act must be approved and granted certificates by the Gaming Board. No more than two machines may be made available for gaming in any licensed or registered club. There is to be no profit-sharing or any other undertaking between the machine-supplier and arcade owner dependent upon machine profits. Suppliers may make rental charges only. The disposal of stakes and the keeping of accounts and records are subject to the control of the Gaming Board. Types of machines which offer an incentive to individuals to continue playing in the hope of increased winnings are prohibited.

Armed with the Gaming Act 1968, the Gaming Board has had considerable success in establishing order and propriety in the sale and use of slot-machines and amusement machines. The Annual Reports of the Gaming Board from 1969-1980 refer to successfully executed agreements between the Board and the machine distributors, manufacturers and entrepreneurs as to the observance of proper guidelines for slot-machines. However, the Annual Reports also assert the continuing need for surveillance and inspection of the industry by the Gaming Board.

The concern of the Gaming Board with slot machines is that manufacturers of machines are continually providing new "customer appeal" features on the machines. These feactures sometimes are in violation of the law. Secondly, many manchines are found to offer payout percentages which are less than those required. Players on the machines are not receiving a fair chance.[174] Because the slot-machine industry is so competitive and at the same time potentially quite lucrative, in the late 70's slot-machines with very high payout jackpots began to appear. In some cases, the Board noted that odds were so long as to be unfair to the player, and of questionable social desirability.[175] As a result of expressions of concern the Board in 1978 it received a commitment from machine manufacturers and suppliers that no machines with jackpots in excess of £100 would be made.[176]

That the Gaming Act 1968 and the Gaming Board have been relatively successful in ensuring that the demand for slot-machine gambling is not artificially stimulated and abused is born out by statistics on machine supply and utilization.

A comparison of the 1974 and 1980 Gaming Board Annual Reports show that the number of Jackpot (large cash prize) machines has been held fairly constant. There has been a large decline in penny slot-machines. Only the amusement-with-prizes machines (limited to small prizes in money or equal value) have increased significantly. The following table presents these figures.[177]

	Number of machines covered by gaming machine licenses for the licensing years:--		
	1973/74	1978/79	1979/80
Jackpot machines (as permitted on premises licensed or registered under the Gaming Act 1968)	32,400	37,100	36,900
Amusement-with-prizes machines (as commonly found in public houses, cafes, arcades and pleasure fairs	73,500	93,200	106,400
Penny machines (on premises with holiday season licenses)	52,471	45,535	24,929
TOTALS	158,371	175,835	168,229*

B. Regulatory Structure: The Gaming Board

The Act defines the different categories of gaming to be permitted in different circumstances, lays down the basic restrictions to be observed, and provides that clubs authorized to operate the more potentially exploitable forms of gaming must be licensed or registered. The discretion as to what detailed regulations should be made to control the operation of gaming activities within licensed or registered clubs was left to the discretion of the Home Secretary.

The Gaming Board assists the Home Secretary in the making of detailed regulations to control the operation of gaming activities within licensed or registered clubs. Following an investigation of existing gaming activities, it made a series of recommendations on the control of gaming within licensed premises, which formed the basis of existing regulations made pursuant to the Act. The Gaming Act 1968 attempts to blend national and local gaming control systems. The courts, the police, local licensing magistrates and in some cases local authorities, are involved in gaming regulation. The Gaming Board, however, is the central agency of the process. The Board is charged with acquiring a detailed knowledge and understanding of the industry.

At the national level, the Gaming Board has several powers and responsibilities. According to the Home Office interpretation of the Gaming Act the Board was charged by the Act with maintaining a general oversight of the extent, character and location of gaming facilities. Its duties as listed were:

> (a) To investigate the trustworthiness of all applicants for licenses for commercial gaming with a view to issuing certificates

> of consent, without which the applications may not be considered by the justices. It will similarly approve gaming supervisors, all gaming operatives in the casinos and selected classes of operative in the bingo clubs, and retailers of gaming and amusement machines. These powers it will exercise on its own authority, and without appeal from its decisions.
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> (b) To advise the Secretary of State on all regulations to be made under the Act.
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> (c) To advise the justices on the public demand for commercial gaming facilities, the suitability of premises to be used by licensed clubs and restrictions to be attached to licenses. The justices will not be bound by this advice, but the Act requires them to take account of it.
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> (d) If it so wishes, to appear before the justices to oppose an application for the grant or renewal, or to move for the cancellation of a license or certificate of registration. It will have no power to override the justices' decisions, but is empowered to appeal against them to quarter sessions and may take up and champion on appeal objections raised by other parties.
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> (e) Through its Inspectors--who will have the same rights of entry into licensed clubs as the police --to assist the police in the detection of breaches of conditions or of fraudulent play.[178]

It is important to emphasize the "watch dog" played by the Gaming Board in commercial casino operations. Anyone desiring to operate a casino commercially, or anyone seeking employment in such a casino must before he can obtain a license from local magistrates, apply to the Gaming Board for a permit of consent. In such an application, the onus is upon the applicant to prove to the Board that he is likely to be capable of, and diligent in, complying with the provisions of the Act and its regulations, that gaming on the premises will be fairly and properly conducted, and that the premises will be conducted without disorder or disturbance.

Should the applicant be unable to satisfy the Board that he is a fit and proper person to operate or be employed in a casino the Board has the discretion to deny him a Certificate of Consent. Only if an applicant receives a Certificate of Consent from the Gaming Board may the local licensing magistrates consider the application for a license. If the Board grants a Certificate of Consent, the local licensing magistrates are obliged to consider any advice from the Board regarding the application. A certificate of consent relates to the functions specified in it and to particular premises, so that a new one is required for any change either in the nature of, or in the place of employment. The Board may revoke a certificate at any time if it considers that the holder is no longer a fit and proper person to retain it.

In deciding whether to give consent to a licensing application, the board need not give reasons for decisions nor disclose sources of information to an applicant, but it must act with fairness and according to the rules of natural justice.[179] The board must in particular take into consideration the character, reputation and financial standing of the applicant and of any other person by whom the club would be managed or for whose benefit it would be carried on.[180]

Information supplied to the board is immune from disclosure on the gounds of public policy.[181]

In R. v. Gaming Board for Great Britain; ex p. Benaim and Khaida, two French nationals contracted to buy the controlling shares in Crockford's Gaming Club and later became joint managing directors. They applied to the Gaming Board for a certificate of consent to entitle them to apply for a license for the premises. The Board refused the certificate. The applicants moved the Court of Appeal for orders of certiorari to quash the Board decision and mandamus to require the Board to give them sufficient information to answer any case against them.

At the hearing the Board stated that the applicants were given the best possible outline of matters troubling the Board but that the sources and content of confidential information were not disclosed where this was inconsistent with their statutory duty and the public interest. It was held by the Court of Appeal, dismissing the motion, (1) that the Board had to act fairly by giving an applicant indication of the objections against him to enable him to answer them; (2) that the Board had done so in this case; and (3) that the Board was not obliged to disclose sources or details of its information to an applicant who was not being required to meet charges but only to satisfy the Board as to his fitness to apply for a license.

There is no right of appeal from a decision of the Gaming Board. Decisions by the Board cannot be second-guessed by a higher court lacking the Board's expertise in gaming operations, and more concerned with strict matters of law than with effective regulation of the gaming industry. Despite the lack of a right of appeal, an unsuccessful applicant may make application for judicial review of the Board's decisions. A court sitting in judicial review may not consider the merits of the Gaming Board decision, but may consider such questions as: did the Board act fairly?; did it consider irrelevant information in making its decision?; did it decide on issues not within its jurisdiction?; was the applicant given an opportunity to be heard? Only if the procedure of Gaming Board decision offends a question of fairness and natural justice, will the decision be rendered inoperative by a court sitting in judicial review.

C. Licensing: Licensing Procedure and Local Licensing Authorities

(i) Licensing Authorities

As discussed in Schedule 2 to the 1968 Act, the responsible authority for the granting, renewal, cancellation and transfer of licenses is the "Licensing Authority". A "Licensing Authority" in any petty sessions area in England would be a committee constimore than fifteen of the Justices acting for that area. A quorum at any meeting of the committee would be three justices.

Before a person may apply for a license he must obtain from the Gaming Board a certificate of consent for the purpose of making such application. The questions the Gaming Board will consider in this respect have already been reviewed. On any application for the granting of a license, the licensing authority may grant the license without hearing the applicant if no objection to the grant has been made or every such objection has been withdrawn before the time of hearing. If an objection is made the licensing authority will hear the persons concerned and also hear any representations made by the Gaming Board, the appropriate officer of police, the appropriate local authority, the Commissioners of Customs and Excise, or the appropriate fire authority.

The licensing authority may refuse to grant a license if there is no demand for the proposed gaming facilities, or the particular demand is already being met. In determining whether a license should be refused on the above grounds, the licensing authority must take into account any advice given to them by the Gaming Board. Apart from the necessity for a substantial demand, and the existence of facilities to meet that demand, the licensing authority may refuse to grant a license on any of the following grounds: unsuitability of the premises; applicant not a fit and proper person to hold a license; that a person managing the club (other than the applicant) is not a fit and proper person to hold a license; that the authority and Gaming Board have been refused reasonable facilities to inspect the premises; that gaming license duty payable on the premises remains unpaid. The licensing authority shall refuse to grant a license if the applicant has been convicted of certain types of criminal offences such as fraud, or if the premises have been habitually used for an unlawful purpose or as a resort of criminals or prostitutes.

On granting or renewing a license the licensing authority may impose conditions on the hours during which gaming may be permitted, the part of the premises where gaming may be carried out, and the particular kind of games that may be played. In determining whether to impose any such restrictions, the licensing authority must take into account any advice given to them by the Gaming Board and any representations made by the Gaming Board. Where a licensing authority grants or renews a license after hearing any objections or representations made by the Gaming Board, and the

Board desires to contest the license, it may appeal to a Court against the decision of the licensing authority.

An application for the cancellation of a license may be made by any person at any time to the clerk to the licensing authority. Where a licensing authority refuses to cancel a license the Gaming Board may appeal against the decision of the licensing authority to a Court of Quarter Sessions.

An application for the transfer of a license from one person to another is of no effect unless the Gaming Board has issued to the applicant a certificate consenting to his applying for a transfer of the license to that other person. The Gaming Board, in determining whether to issue such a certificate, must have regard to the capacity of the transferee to secure the provisions of the Act, and the proper conduct of the premises.

Where the holder of a license is a body corporate and there is a change in the persons who are directors, or who act under the directors, the body corporate must serve the Gaming Board with a notice giving particulars of the change.

Where the licensing authority refuses to grant a license, or imposes restrictions on such grant, the applicant may appeal to a Court in the authority's area against such refusal or imposition of conditions.[182]

(ii) Renewal of Licenses

Any application for the renewal of a license shall be made to the licensing authority in January or February in the year in which the license is due to expire. At any time in March in each year, every licensing authority must advertise in a local newspaper a notice stating the date, time and place where applications for renewal will be considered, and information on making objections against the renewal of a license.

On any application for the renewal of a license, the licensing authority may renew the license without hearing the applicant if no objection to the renewal has been made or if every such objection has been withdrawn. If objections are made and not withdrawn, the licensing authority must hear the applicant and the objector, and also any representations made by the Gaming Board, the police, the appropriate local authority, the Commissioners of Customs and Excise or the appropriate fire authority.[183]

The grounds on which the renewal of a license may be refused are generally the same as those on which an original application for a license may be refused, i.e., the unsuitability of the premises by reason of their layout, condition or location; the applicant is not a fit and proper person to hold a license; the person who will manage or carry on the club (other than the applicant) is not a fit and proper person to hold a license, etc. The licensing authority shall refuse to renew a license if, by virtue of a disqualification order, such a license is prohibited from being held in respect of the premises.[184] A license may be refused in respect of premises where there is direct access to the premises from other private premises not included in the license.

(iii) Restrictions Attached to a License on Renewal

On renewing a license the licensing authority may impose restrictions on the hours during which gaming will be permitted to take place; and also restrictions limiting the gaming to a part of the premises, the particular kinds of games that may be played, and the purposes (other than gaming) for which the premises may be used[185].

Where a licensing authority refuses an application to renew a license, or impose restrictions, the applicant may appeal to aCourt against the decision.

Where a licensing authority renews a license after hearing any objection or representations made by the Gaming Board, and the Board contends that the license ought not to have been renewed or that the licensing authority ought to have imposed restrictions or more stringent restrictions, the Board may appeal against the decision to a Court.

D. The Gaming Act 1968 and The Gaming Board: How Effective Have They Been

How effective the Gaming Act 1968 and the Gaming Board have been in regulating casino gaming is a matter of some controversy in Britain. The Royal Commission on Gambling (The Rothschild Report) addressed the question in 1978, The Commission perceived the situation as follows:

> The 1968 Act has been successful in operation. ...The gaming scene is now very different and it has in almost every respect improved since the time when public and Parliamentary concern led to the passing of the Gaming Act and the establishment of the Gaming Board.
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> ... The Board has been particularly successful in dealing with casinos in which, before the 1968 Act, the criminal threat was perceived to be greatest. The situation has now changed markedly and in future we envisage that the Board's role will have to change and develop somewhat away from the crime-busting one with which it now tends to be identified.[186]

In common with this perception of the successes of the Act and the Gaming Board in overcoming criminal involvement in the gaming casinos, the Royal Commission recommended that in the future the Gaming Board should become more of a "regulator" and "levy-raiser" and less concerned with crime.[187] The Royal Commission saw no need to extend the powers of the Gaming Board or to deal with the threat of criminal elements in gaming casinos and/or in other gambling activities.[188] The Royal Commission was clearly of the view that the problem of criminal involvement in gaming casinos and other gambling activities had been successfully dealt with or could be dealt with using the existing statutory bodies.

In contrast to the optimism of the Royal Commission are the submissions made by the Gaming Board and others.[189] In response to the Commission's suggestion that the Gaming Board should become a "levy-raiser", The Board made the following succinct response in its 1979 Annual Report:

> ... the Board consider that there are substantial policy objections to their becoming tax collectors. There would be a risk of the

> Board becoming concerned with the level of profitability of gaming, a development which could conflict with their functions for law enforcement. ...the Board believe that it should be for the revenue departments to be responsible for collecting all the tax arising from the operation of casinos.[190]

The Gaming Board argued strenously that there is a need for an overall gambling authority with substantial powers to supervise the whole gambling field. The Board explained their argument as follows:

> Legal gambling which is not properly supervised and controlled can be just as lucrative and almost as harmful to society as illegal gambling. There must be constant vigilance to ensure that any legalised gambling activity is not penetrated by criminal interests, who in this connection comprise sophisticated, intelligent, highly organised, well briefed and clever operators with enormous money resources which enable them to hire the best brains in the legal, accountancy, managerial, catering and show business world. Gambling is a complex, international, multi-million pound activity with a multilevel structure of organisation. The fact that gambling has many aspects and that the criminal element can be present at different levels requires that it be controlled by a strong and effective supervisory body with clear and comprehensive powers, capable of matching the powerful gambling conglomerates...[191]

The argument of the Board is reinforced by the fact that gambling industry take-overs during the past decade have resulted in the bulk of the industry being controlled by four gambling conglomerates, Coral, Ladbroke's, William Hill, and Mecca.[192] Meanwhile, regulatory control of the different gambling services--horse-race betting, lotteries, sports pool betting, bingo and casinos--is split among a number of separate statutory bodies. Further, in evidence before the Royal Commission, and in a number of its annual reports, the Board identified specific problems with the Gaming Act which inhibit the Board's effectiveness in suppressing corrupt practices in gaming casinos.

As the Act stands, once a certificate of consent is properly obtained from the Board it can only be revoked if the local licensing authority which issued the gaming license makes a disqualification order. Such an order has been rarely made by the licensing authorities, despite clear evidence of persistent breaches of the Act. The Board has argued that because of the unwillingness of licensing authorities to issue disqualification orders, and because of the long delays involved in opposing the renewal of a license or applying for the cancellation of a license, its powers are insufficient to cope with the malpractice and corruption which has been discovered. Therefore, the Board wants the Act amended to: (1) require holders of certificates of consent to renew them at regular intervals, during which process the Board would be in a position to investigate their activities closely; and (2) allow it to revoke the certificate of consent if evidence of corruption or malpractice is found. The Board believes that these powers would provide a strong incentive for casino owners and managers to keep their own operations in line.

A second aspect of casino operations where the Board argues firmer control measures are required involves the take-over of the company holding the certificate of consent by another company. So long as the purchasing company preserves the legal personality of the company holding the consent certificate, it is not required to obtain new certification from the Board. The legislation therefore allows a company or an individual who would not succeed in an application for consent from the Gaming Board to circumvent the Board by acquiring a legitimate casino operation. A similar situation exists where substantial changes in the shareholding result in a change of control of the company holding the certificate. Although the Act requires that changes in the directorate of a company must be reported to the Board, there is no requirement to notify the Board of changes in shareholders and the Board is thus unable to pierce the corporate veil.

The Commission agreed with the Board arguments regarding the piercing of the corporate veil, and made recommendations to that effect.[193] But as noted previously, the Commission disagreed with the majority of the Board's other arguments, including the "revocation of permission" issue, and in effect recommended that some of the existing powers of the Board should be curtailed.[194] The Commission also recommended that the decisions of the Gaming Board should be open to appeal. The result of this would be to leave the Board open to second guessing by higher courts more concerned with judicial precedent and less expert in gaming operations.

Although the Royal Commission did not agree with the Board on the need for greater control of the gambling industry the Commission report is not the end of the question. In contrast to the Royal Commission's optimism, the Gaming Board noted that organized crime's interest in gambling whether legal or illegal is sophisticated, persistent, highly organized and well-funded -- thus the need for constant close supervision and investigation by the Gaming Board.[195] The Board argued strenuously that the addition of a casino tax-raising role to its existing supervisory and law-enforcement role creates a conflict of interests--there would be a risk of the Board becoming concerned with the level of profitability of gaming, which could conflict with its law enforcement functions.[196]

The Gaming Board has also pointed out growing weaknesses in the present control scheme.

1. When evidence of corruption or malpractice at a casino is found, the procedure involved in revoking the casino's license is too complicated and time consuming.[197]

2. When a certificate is held by a corporation and there is a takeover, so long as the purchasing company preserves the legal personality of the company holding the consent certificate, it is not required to obtain new certification from the Board. This, legislation allows a company or an individual to circumvent the Board's consent safeguards.[198]

Recent evidence of widespread corruption in the casino industry tends to support the arguments of the Gaming Board. Several London area casinos (Ladbroke's, Coral, and Norwich Enterprises) have been charged with such offences as skimming, junketing, fraud and the provision of unlawful credit. The discoveries of malpractice have been so extensive as to lead notable gaming industry analysts to conclude that the Gaming Act 1968 and the Gaming Board have not by any means eliminated the corruption that had been associated with the casinos in the 1960's. The large profits of casinos, the fast movement of money and the need to attract regular high-stakes customers will induce the casinos to violate the stringent British gaming laws, and will always be attractive to criminal interests.[199]

Casino costs are fixed for the most part, they involve some capital costs in furnishing a casino but no significant recurrent expenditures. Overhead does not increase as a larger clientele is attracted. Due to the odds of the games, casinos can expect to retain 19-20% of the money staked. Assuming that a casino is able to cultivate clients who gamble regularly for high-stakes, it will be cushioned against the occasional heavy loss and it will make steady profits.[200]

In the late 1970's, British casinos marketed their services aggressively to obtain and keep regular high-stakes patrons. Many of the aggressive marketing techniques of the casinos were patently unlawful. The high-stakes London casinos continually engaged in such offences as illegally providing credit for gaming, tipping, providing complimentary passes to casinos and other "junket" amenities, payment of commissions to members for enticing new patrons to join the casino, improper cheque-cashing procedures, and illegal sales of foreign currency. To the extent that these practices succeeded in attracting and keeping more regular high-stakes gamblers, the casinos achieved very profitable operations.[201]

The fact of systematic illegalities has important implications for gaming policy in Britain. First, the policy of vigourously regulating legal gaming operations, and curtailing the growth of "a gambling ethic" in society is brought into question. There would seem to be an inherent contradiction between the policy objective and the interests of casinos. If casinos do in general face the market structure and profit situation that has been described then the interest of the casino in higher profits will always be furthered by the use of "junkets", illegal credit, payment of commissions, etc., to attract new customers to high-stakes gaming. But enticing non-gamblers and leisure-gamblers to become regular, high-stakes casino gamblers goes directly against the policy of British style gaming laws. Moreover, the marketing methods used ("junketing" credit abuses, etc.) are unlawful. Any jurisdiction contemplating legal casino gaming would be wise to consider the extent to which these contradictions between policy aims and casino interests result in difficult enforcement problems for public authorities.

A second implication relates directly to control agencies such as the Gaming Board. If it is inevitably in the best financial interests of casinos to violate British gaming law in attempting to promote a "gambling ethic," and in using unlawful or unethical methods can a control agency such as the Gaming Board ever achieve much success?

5. Betting, Bookmaking, and Lotteries in Great Britain

There are three major forms of legal pool betting in Great Britain; Soccer Pools, the Tote, and Greyhound Racing Totalisators. These forms of pool betting have a long existence in Britain and are relatively non-controversial. The Royal Commission on Gambling (1978) concluded that the legal framework for the supervision of soccer pools has worked effectively, and there was no need to change either the form of the regulatory controls nor the content of the governing legislation.[202] The Royal Commission did however recommend that an upper limit (£500,000) for prizes should be established. The Royal Commission appeared to accept arguments that large prizes encouraged greed and envy, and that large soccer pool prizes would compete with large-odds lotteries.[203]

The Tote system (The Horse-race Totalisator), horse-race pool betting in Great Britain, provides an interesting example of the interdependency of some of the different forms of betting and gambling. Since the 1960's, and particularly since the 1968-69 racing season the Tote has been in financial trouble. Its problems arose when The Betting and Gaming Act 1960 permitted Bookmakers to accept cash bets at off-track betting offices. This had the effect of decreasing the amount of money bet at the track (i.e. the Tote market). Moreover, bookmakers could offer an unlimited variety of bets (horse-races, greyhounds, beauty contests, general elections, etc.) with several types of odds (fixed odds, Tote odds, or multiple bets). The final result of the legalization of off-track bookmakers was to make pool-betting with the Tote relatively less attractive.

In the face of the competition from the off-track betting offices, a possible alternative open to the Tote would have been to offer more exotic pool bets such as "Daily Doubles" "Trifectas", etc. These are long-odds bets where the bettors chances of winning are very small but potential winnings are very large. However, the long-odds betting market was already served in Britain by the soccer pools, small local lotteries, and by the proposed National Lottery for Good Causes.

In view of the legalization of bookmakers and the growth of long-odds sports, betting pools and lotteries, it appears that the Tote system of pool betting has been squeezed from many directions. In an attempt to meet the competition the Tote altered its objectives and character. In addition to traditional on-track operations, the Tote since 1972 has operated off-course betting shops in direct competition with the bookmakers. The Tote has also discarded somewhat its original objective of providing pool betting services to horse-race enthusiasts.[204]

The fact that the Tote now treats the provision of pool betting services as secondary to the expansion of its bookmaking betting shops, indicates that there is an interdependency between different forms of legal and illegal gambling. Creation of new or unique legal gambling opportunities may cause the decline of an established variety of legal gambling. Before embarking on new forms of legal gambling, or new gambling-based revenue schemes, it may be advisable to study carefully what the effects will be on existing forms of legal and illegal gambling.

A. Bookmaking in Britain

Prior to 1960, illegal bookmaking was rampant in Britain. Moreover the pre-1960 prohibitions on off-track betting and bookmaking which discriminated against working-class people, were illogical and hopelessly ineffective. The laws produced resentment and successful attempts to corrupt the police resulted in contempt for authority. Moreover, the bookmaking trade operated outside the law and was subject to protection rackets and gang violence.[205]

The Betting and Gaming Act 1960 was enacted to alienate and rectify the problems inherent in the old laws. The Act sanctions the establishment of licensed betting shops which are allowed to entertain off-track cash bets. Bookmaking is now a lawful trade subject to an effective system of licensing and control.

The Act prohibits the placing or taking of bets in any street or public place. However, authorized bookmakers are permitted to accept cash bets in a licensed betting shop.

The betting shops are subject to strict regulations similar to the casino restrictions. A betting office is permitted only where an unmet demand is shown to exist. They must be closed between the hours of 6.30 p.m. and 7.00 a.m. and betting office personnel may not encourage persons to bet. No facilities may be provided for the reception of any public television or sound broadcast; no music or entertainment of any kind is permitted; no refreshments may be served; and there must be no access through a licensed betting office to any premises used for any other purpose.

The objective of the betting shop restrictions is to prevent continuous betting, loitering, and inducements to bet. While bettors are allowed to pass the afternoon in a betting shop and are permitted to bet continuously upon one race after another, it is believed that the character of the betting shops does not induce such conduct.

As a result of the legalization of betting shops, illegal bookmaking has been virtually unknown. Moreover, according to the police, under the present law, betting shops require very little supervision.[206] Only since the introduction of betting taxes of 8.5% (on the amount bet) has there been a resurgence of illegal bookmaking. The Royal Commision on Gambling (1978) noted that such a tax rate makes illegal bookmakers (who do not pay such taxes and therefore have more money available for high pay- offs for winners) more attractive.[207] This is a concrete example of the legal gambling tradeoff. Legal gambling cannot raise significant government revenues and curtail illegal gambling markets at the same time; the two policy goals are in conflict. The Royal Commission therefore recommended that if the control and curtailment of illegal gambling is the main policy goal of legal gambling in Britain, the government ought not over-tax legal gambling operations.[208]

B. Lotteries in Great Britain

The effective regulation and control of lotteries, and the proper role of lotteries in British society have been the source of much controversy. Since the 1930's several commissions and a number of legislative enactments have been unsuccessful in addressing the lottery issues. The Lotteries and Amusements Act 1976, and the Lottery Regulations of 1977 constitute the contemporary British law on the subject. Experience since 1977 indicates that both of these measures have proven inadequate as well.

The important underlying issues in Britain have involved financial, political and law enforcement questions. Charities, clubs and local governments in Britain perceive lotteries to be a significant source of revenue. In their efforts to capture greater amounts of revenue several otherwise legitimate organizations have gotten involved in lotteries which have been illegal. The quest by charities and clubs for more and large revenue creating lotteries has repeatedly outstripped the legislation that was supposed to control the situation.

The law-enforcement problem has stemmed from two sources. First, much of the legislation has been quite complex, with the result that it has often been difficult for either promoters or police to ascertain when a particular form of lottery is unlawful. Second, because many of the lotteries have been for good causes, the police have tended to be reticent in enforcing the lottery laws. The political problem reflects the trade off between effective law enforcement and greater revenues that lotteries involve. Governments have found that legislation aimed at carefully supervising and controlling lotteries, and enforcement measures directed at implementing such legislation have been politically unpalatable. Clubs and charities regard lotteries as a main source of revenue and resent strict government control and supervision measures.

The lack of agreement on the proper role of lotteries in British society, and the inadequate legislation and enforcement measures has meant that lotteries in Britain in the late 1970's were in a chaotic state. Annual reports of the Gaming Board note that the market was reaching the saturation point. The number of lotteries being run was leading to increasing competition for a progresssively smaller piece of the pie. As a result accounting checks by the Board revealed that a large proportion of lotteries were in breach of permitted levels for expenses and prizes. Some lottery agents were engaging in disreputable promotion methods. In other cases, even where the consequences of declining sales were appreciated, too many societies and local authorities continued to run lotteries in breach of the law, in the often vain expectation that matters would improve.[209] The Board's 1980 report noted that over 48% of all local authority lottery accounts and over 39% of all charity lottery accounts showed violations of the legislation.[210]

The "Competition Factor" and the "Novelty Aspect" help to explain what has happened with lotteries in Britain. If a charity or government is the first to introduce a lottery it may initially have a very profitable market. Later when other charities, groups, or governments develop the same or a similar lottery, competition for the available market may result in substantially lowered profit figures for all of the lotteries. In this sense, the British scene may be taken as being representative of what may happen when lotteries in a given jurisdiction reach their mature market stages. Lotteries have been promoted in Britain to a significant degrees since the 1930's. What many charities, clubs and local governments earlier perceived to be a lucrative market has become a very competitive one. The intense competition for greater revenue has led to the many abuses of the legislation.

Following its detailed investigation of the British lotteries scene, the Royal Commission made over 60 recommendations regarding reform of the existing legislation. The following comments illustrate the general conclusion the Royal Commission arrived at with respect to lotteries:

> ...Most Governments take the view that lotteries are a harmless form of gambling and also provide harmless entertainment.[211]

There is a good deal of justification for this view to which we subscribe subject to two important qualifications. The first is that all lotteries must be strictly controlled. Lotteries may be socially harmless but they present greater possibilities for fraud than either betting or gaming, because the punter does not see what is happening to his money. Moreover, lottery frauds often go undetected because most people have little expectation of winning a prize and take for granted the integrity of those who organise the lottery. These points were clearly made in the evidence to the Royal Commission of the Metropolitan Police Commissioner, endorsed by the Association of Chief Police Officers of England and Wales.

> ...The second qualification is that people should not be induced to spend more on lotteries than they can afford. With a conventional lottery there is no particular danger of this happening. A person buys one or more tickets, depending or what he or she

> can afford, and then waits for the result of the draw... The advent of instant lotteries in their latest form has introduced a new dimension.[212]

The Royal Commission was of the view that some restrictions must be put on instant lotteries if they are to remain a harmless form of gambling.[213]

In its conclusion the Royal Commission noted that it found the lotteries situation of Britain in 1978 to be scandalous. In the effort to compete for greater lottery revenue there was wholesale disregard of the law; the law was inadequate and confused; commercial exploitation to a totally unacceptable degree existed; gross lack of security was found and much dishonesty suspected. The Royal Commission seriously considered recommending that all of the existing law (1975 Act and 1971 Regulations) be scrapped and replaced with new tighter controls.[214]

The British experience with lotteries points out the necessity of examining lottery markets with great care. Otherwise the potential revenue of such markets can be greatly overestimated with the result that several charities, institutions and government schemes may enter the market. Once the novelty of the initial lotteries has worn off and the market reaches the saturation point, the intense competition for greater revenue may lead to numerous violations of the controlling legislation such as these noted in Britain.

The following attached tables illustrate the incredible increase in the number and variety of lotteries following the 1975 Act and the ineffectual 1977 Lottery Regulations. As would be expected, without adequate statutory and administrative control the promotion of lotteries has multiplied until the market seems to be saturated. This type of cut-throat competition for sales likely contributed to further abuse of the Act and Regulations.

TABLE 1

All Lotteries Promoted in England and Wales, and Scotland between 1 May, 1977 and 30 April, 1978 under Schemes Registered with the Board.[215]

SOCIETY LOTTERIES

	Number of Lotteries	Total Ticket Sales (£)	Expenses		Prizes		Balance	
			(£)	(%)	(£)	(%)	(£)	(%)
England and Wales	1,280	9,484,882	1,877,331	19.79	3,298,563	34.78	4,308,988	45.43
Scotland	17	108,466	17,219	15.87	36,951	34.07	54,296	50.06
Total	1,297	9,593,348	1,894,550	19.75	3,335,514	34.77	4,363,284	45.48

LOCAL AUTHORITY LOTTERIES

	Number of Lotteries	Total Ticket Sales (£)	Expenses		Prizes		Balance	
			(£)	(%)	(£)	(%)	(£)	(%)
England and Wales	1,190	9,239,698	1,881,121	20.36	3,601,198	38.98	3,757,379	40.66
Scotland	12	46,005	9,751	21.19	23,650	51.14	12,604	27.40
Total	1,202	9,285,703	1,890,872	20.36	3,624,848	39.04	3,769,983	40.60

TABLE 2

All Lotteries Promoted in England and Wales, and Scotland between 1 May, 1978 and 30 April, 1979 under Schemes Registered with the Board.[216]

SOCIETY LOTTERIES

	Number of Lotteries	Total Ticket Sales (£)	Expenses		Prizes		Balance	
			(£)	(%)	(£)	(%)	(£)	(%)
England and Wales	7,831	56,133,059	12,043,794	21.45	21,900,179	39.02	22,189,086	39.53
Scotland	488	3,629,081	808,755	22.29	1,419,651	39.12	1,400,675	38.59
Total	8,319	59,762,140	12,852,549	21.50	23,319,830	39.02	23,589,761	39.48

LOCAL AUTHORITY LOTTERIES

	Number of Lotteries	Total Ticket Sales (£)	Expenses		Prizes		Balance	
			(£)	(%)	(£)	(%)	(£)	(%)
England and Wales	4,642	30,925,320	6,550,516	21.18	12,717,145	41.12	11,657,659	37.70
Scotland	170	1,025,461	237,113	23.12	441,259	53.03	347,089	33.85
Total	1,202	9,285,703	1,890,872	20.36	3,624,848	39.04	3,769,983	40.60

TABLE 3

All Lotteries Promoted in England and Wales, and Scotland between 1 May, 1979 and 30 April, 1980 under Schemes Registered with the Board.[217]

SOCIETY LOTTERIES

	Number of Lotteries	Total Ticket Sales (£)	Expenses (£)	Expenses (%)	Prizes (£)	Prizes (%)	Balance (£)	Balance (%)
England and Wales	8,334	58,881,911	12,643,352	21.47	24,220,985	41.14	22,017,574	37.39
Scotland	840	6,524,590	1,503,806	23.05	2,626,744	40.26	2,394,040	36.69
Total	9,174	65,406,501	14,147,158	21.63	26,847,729	41.05	24,411,614	37.32

LOCAL AUTHORITY LOTTERIES

	Number of Lotteries	Total Ticket Sales (£)	Expenses (£)	Expenses (%)	Prizes (£)	Prizes (%)	Balance (£)	Balance (%)
England and Wales	2,936	17,807,430	3,887,997	21.83	7,385,596	41.48	6,533,837	36.69
Scotland	64	711,398	163,348	22.96	296,058	41.62	251,992	35,42
Total	3,000	18,518,828	4,051,345	21.88	7,681,654	41.48	6,785,829	36.64

6. Conclusions - British Scheme of Gambling Control

The following general conclusions seem to be the most important insights offered by the British experience with gambling control.

A. Whenever new forms of gambling are to be allowed under new legislation it is of paramount importance that the reforming legislation be drafted with extreme care. Most forms of gambling (gaming, lotteries, betting) are extremely profitable. Therefore, there is considerable financial incentive for gambling promoters to stretch liberalized gambling laws to the legal limit and beyond. This was exactly the experience with the Betting and Gaming Act 1960 and the Lotteries Act 1975.

The former Act was intended to make provisions for social gambling; no one contemplated or was prepared for the explosion of commercial casinos, the adulteration of social activity games (bingo, whist, bridge, etc.), and the quickly increased involvement of criminal interests.

The latter Act along with the Lottery Regulations 1977 was intended to broaden the sphere of legal lotteries for charitable societies, sports groups and local governments. The new laws have been shown to have insufficient inspection and enforcement provisions thus opening the way to malpractice and fraud in the operation of some lotteries. The failure of liberalized gambling legislation to provide police and a regulatory body (The Gaming Board) with strong inspection and enforcement provisions would be a serious deficiency.

B. Legislation which liberalizes gambling should provide policy-makers with power to make wide-ranging regulations in respect of gambling activities. The Betting and Gaming Act 1960 does not have these provisions. As a result, when gambling promoters and criminal interests exploited loopholes the regulatory body did not have the power to make specific regulations which could have arrested the malpractice and corruption that was occurring. At the same time the police were faced with a demoralizing and long list of unsuccessful prosecutions as the promoters and criminal interests found and exploited more and more loopholes.

In the end, to address the situation it was necessary not only to draft an entirely new act (The Gaming Act 1968), but to include in the new Act, broad powers to make regulations in respect of specified gambling activities, and also provision for the Gaming Board one of whose tasks is to provide on-going advice regarding the necessity for, content of, and scope of further regulations.

C. The creation of an expert quasi-judicial regulatory body to administer and supervise the whole sphere of gambling or selected areas of gambling is advisable.

Studies of the gambling industry in Britain and elsewhere indicate legal gambling is financially lucrative. It attracts interests which in the words of the Gaming Board are "sophisticated, intelligent, highly-organized, well-briefed and clever operators with enormous money resources which enable them to hire the best brains in the legal, accountancy, managerial, catering and show-business world."

To adequately ensure that gambling operations stay within the limits of the law; to ensure that gambling enterprises are not clandestinely operated, or influenced by criminal interests; and to ensure that there is adequate knowledge of the extent and character of gambling activity, it is advisable that an expert quasi-judicial regulatory body be created.

This task is too large, and too specialized to be left to the police. .

D. The decisions of an expert quasi-judicial gambling regulatory body should not be open to appeal to higher courts; rather its decisions should be judicially reviewable only on questions such as excess of jurisdiction, abuse of power, natural justice, etc.

It is illogical to allow the decisions of an expert quasi-judicial regulatory body to be second-guessed by a higher court of law that is inexpert in gambling policy-making and regulation, and is more concerned with legal precedent and fine points of law. If an unsuccessful applicant to the regulatory body believes he has been dealt with in an arbitrary or unjust manner then his recourse should be an application for judicial review. The court in such an instance should be limited to reviewing the decision of the regulatory body for bias, excess of jurisdiction, abuse of power, etc.; the court should not be allowed to question the regulatory body's expertise.

E. Overall regulation and control of liberalized legal gambling should be somewhat decentralized. The wisdom of the British approach here is readily apparent. With licensing decisions vested in local magistrates; permit control, inspection powers, limited enforcement powers, and overall expertise vested with the Gaming Board; and extensive inspection and enforcement powers vested in the police, such a regulatory network is not easily susceptible to corruption. Too many independent personalities are involved for criminal interests to effectively influence or corrupt the control network for a long period of time.

F. Government schemes to raise revenue via taxation of legal gambling activites should take care to ensure that a heavy tax levy does not create an incentive for the gambler to bet illegally in order to avoid a heavy tax on gambling winnings.

If the motivation for a particular variety of legal gambling is to decrease the incentive people may have to gamble illegally then tax rate which decreases the gamblers' winnings too substantially may recreate an incentive for the gambler (escaping taxes on winnings) to return to the illegal bookies. The instant example of this dilema is the British experience with the tax structures imposed on legalized betting shops.

G. Finally, and obviously, no regulatory system, no matter how strategically and technically sound, is effective when it lacks adequate financial resources. This is perhaps the critical weak-link in the British scheme of gambling regulation. The government has not given the Gaming Board the financial means to hire adequate staff to perform all of its tasks.

To the British, experience seems to provide the most extensive insights as to the relationship between legal gambling and enforcement of laws re illegal gambling. The British experience shows that for the purpose of evaluating effective enforcement of gambling law, it is important to distinguish between the different types of gambling i.e. casino gambling, betting shops, sports pools, lotteries, etc. Each type employs a different method of marketing, appeals to different sectors of society, and involves distinctive enforcement questions.

Licensed Betting Shops in Britain seem to provide evidence that under certain conditions, a specific mode of legal gambling (low-stakes betting on races, sports events, etc.) may result in less illegal gambling and improved enforcement effectiveness.

Before the Betting and Gaming Act 1960, betting for cash was allowed only on a credit basis - i.e. only those wealthy enough to obtain credit could bet off-track. In effect, people who could not afford credit, simply bet illegally either by means of runners or unlawful betting houses. The Rothchild Report noted the effect of the law as:

> Instead of suppressing betting among poorer people, the law produced resentment and attempts to corrupt police, contempt for authority and a bookmaking trade operating outside the law, prey to protection rackets and gang violence.[218]

Following the proclamation of the Betting and Gaming Act 1960 and until 1966, British authorities believe that illegal betting was virtually non-existent. However, since the introduction of, and increase in the Betting Duty in 1966, and subsequent increases in its rate, there has been a recurrence of illegal bookmaking. The Royal Commission saw the situation as follows:

> The introduction of the betting duty meant... that betting offices began to make deductions from winnings and this gave illegal book-

> makers a competitive advantage. This was relatively small when the betting duty was 2.5%, but successive increases to the present off-course rate of 7.5%, together with a levy of just under 1% maximum, means that most betting offices now deduct 8.5% from winnings. This gives a formidable advantage to the bookmaker who can offer the same odds without any deductions.[219]

In the view of the Commission, the recent incidence of illegal betting is simply a function of the combined rates of duty and levy on betting.

While the Royal Commission made the above observations, it was careful to note that the evidence about illegal betting is impossible to quantify because it is almost entirely anecdotal. However, the Commission noted that under the present law governing betting offices, police evidence shows the betting offices require hardly any supervision at all, and that betting "today" is still virtually free from criminal activity.

Legal casino gambling and enforcement of casino law involves different problems. Once again, the aim of the British legislation is to regulate and control gambling as a social phenomena rather than to raise public revenues from it. As a result, the regulatory authority--The Gaming Board, is given very great powers (some say "Draconian") over nearly all aspects of casino licensing and operations. In addition, the police have broad powers of inspection and enforcement. Between the 1968 inception of the Gaming Board and the mid 1970's, the Board and the police were quite effective in shutting down illegally-run casinos and in getting undesirable elements out of British casino gambling. However, events since then have shown a new character and extent of effective casino gambling law enforcement. On the one hand, The Gaming Act 1968 prohibits casinos from engaging in enticing individuals to gamble by means of paying commissions, providing complementary passes, junkets, and extensive credit. On the other hand, due to the cost-profit structure of the casino business, casinos are sure to increase their profits by doing the proscribed acts. Thus one observer of the British casino scene concludes that due to the market structure of the casinos, under the present legislation they will always have an incentive to engage in illegal behaviour, and as a result, there will be a need for continuing surveillence by the Gaming Board, with perhaps some increase in, and broadening of the Board's powers.

In addition, the casino legislation and its strict enforcement failed to deal with the problem of gaming in the streets. In response to the continuing problem of illegal street gaming, the 1978 Royal Commission recommended a penalty of imprisonment for persistent offenders.

VIII. APPLICATION OF GREAT BRITAIN'S LEGALIZED GAMBLING EXPERIENCE

1. Gambling Legislation in the Bahamas

After examining legalized gambling in Great Britain, it is instructive to turn to three countries which were guided in part by the British experience. The Bahamas can be seen to emulate most of the British casino model, and Australia and New Zealand follow the tradition but alter it to match the varying cultural conditions.

A. Comparison Between British and Bahamas' Gambling Legislation

The principle gambling control legislation in the Bahamas consists of The Lotteries and Gaming Act, 1969, the regulations pursuant to the Act, The Gaming Regulations, 1971, and The Lottery and Gaming (Amendment) Acts, 1971, 1972, 1974, and 1978. Several similarities exist between the provisions of Bahamas gambling legislation and the provisions of the principal British legislation, The Gaming Act 1968. Both countries:

(i) prohibit all commercial gaming other than on licensed premises, but allow non-commercial gaming on domestic occasion in private homes, hostels, and education residence;

(ii) establish a Gaming Board with powers substantially similar to those of the Gaming Board for Great Britain;

(iii) require that the Gaming Board consider two main factors when deciding whether to recommend the granting of a license:

(1) is there a demand for the gaming facilities proposed?;
(2) is it in the public interest in all the circumstances that a license should be granted? (s. 31)

B. Licensing in the Bahamas

Casino licenses are not granted to non-residents of the Bahamas, or to anyone who has been convicted anywhere of an offence involving fraud or dishonesty. Every report made by the Gaming Board regarding a license application must be considered by the Minister in making a decision. The Minister's decision as to the granting of a license is final. A condition of the granting of a license is authorization by the licensee of every bank where he has accounts to disclose fully to the Gaming Board full particulars of the account(s).

Like the Gaming Board for Great Britain, the Bahamas' Gaming Board is also charged with approving the personnel employed in the gambling casinos. The rationale in both cases is the same--to eliminate undesirable people from casino gambling operations. The Gaming Board and police of the Bahamas share the enforcement responsibilities of the Act. Again, as in Britain, the Gaming Board appoints inspectors who along with the police have viturally unlimited powers of entry and inspection of casino premises.

C. Restrictions On Casino Gambling

The most interesting characteristic of Bahamas' casino gaming is the fact that Bahamian citizens, residents, landed immigrants, those employed by the Government of the Bahamas, or those doing business in the Bahamas, are prohibited from gaming. In other words, casino gaming in the Bahamas is limited strictly to tourists and visitors to the islands. Though the rationale for such a proscription is not given in the legislation, it may be concluded that policy-makers of the Bahamas regard casino-type gambling to be a social-evil to the extent that it must be prohibited among citizens and residents of the country. However, since it is an important revenue source, it is allowed and actively promoted for tourists and visitors.

As in Puerto Rico, if tourism plus revenue is an aim, it is difficult to eliminate casino gambling by those locals who have the necessary money to gamble--especially if they have the cash to gamble lavishly. We know enforcement of this regulation is often overlooked in Perto Rico and we might assume the same to be true in the Bahamas.

D. Amendments to the Lotteries and Gaming Act, 1969: Tightening up the British Model

Since The Lotteries and Gaming Act, 1969 was passed, the Government of the Bahamas has passed The Gaming Regulations, 1971 and several amendments to the original Act. The most noteworthy aspects of the Regulations are provisions setting out the powers of the Gaming Board Inspectorate, and specific rules for the casino games.

The Lotteries and Gaming Amendment Acts of 1971, 1972, 1974 and 1978 have the following important characteristics:

(1) the Minister in view of the public interest and after consultation with the Gaming Board may, with 14 days notice, suspend a casino license;

(2) the Gaming Board must be notified of a licensee's intention to acquire foreign gaming interests;

(3) the Minister may ban an individual (otherwise allowed to gamble) from entering casinos;

(4) approval by the Gaming Board is required for the employment, not only of those who actually conduct the gaming in casinos, but also of individuals who are employed in capacities such as hostessing, waiting (waitressing), bartending, etc., in casinos;

(5) fingerprints are required of all casino managers, promoters, supervisors, accountants, croupiers, cashiers, inspectors, security supervisors, etc.; and,

(6) police and Gaming Board inspectors have the authority to arrest without warrant, persons reasonably suspected of having committed an offence under the Act.

The general character of these amendments indicate that the Government of the Bahamas has found it necessary to legislate more stringent control and enforcement measures upon the casino industry since the original Act was passed in 1969. Whether these more stringent control and enforcement measures are due to abuse of the original Act and/or the penetration of criminal interests is difficult to ascertain.

E. Casino Taxation in the Bahamas

Taxation of casinos in the Bahamas is covered by the provisions of The Casino Taxation Act, 1967, and The Casino Taxation (Amendment) Acts, 1967 and 1974. At the present time, operating casinos in the Bahamas are subject to a Basic Tax of $200,000/year plus the following Tax on Gross Winnings:

- On gross winnings up to and including $10,000,000 = 25%
- On gross winnings in excess of $10,000,000 up to and including $16,000,000 = 20%
- On gross winnings in excess of $16,000,000 up to and including $20,000,000 = 10%
- On gross winnings in excess of $20,000,000 = 5%

As of January 1, 1974, the lowest amount owing per casino per year was deemed to be $2 million. Therefore, if a casino owed less on the basis of the above formula, $2 million was assigned as the tax owing.[220]

2. Legalized Gambling in Australia

A. Control of Gambling in Australia

In the Commonwealth of Australia, the responsibility for legal gambling falls within the jurisdiction of the individual States. Therefore, each State has its own rules and regulations governing legal gaming.

Legalized Gambling in Australia

State	Types of Legalized Gambling
Australian Capital Territory	On- and off-course horse-race betting (including trotting) and greyhound racing; Amusement machines; Poker machines; Lotteries, including Local Raffles, Art Unions and Interstate Lotteries.
New South Wales	On- and off-course betting on horse-racing and greyhound racing; Lotteries; Poker machines.
Northern Territory	On- and off-course betting on horse-racing and greyhound racing; Lotteries, including Raffles and Sweepstakes, Territory Sports Loto and Instant Sports Lottery; Casinos.
Queensland	On- and off-course betting on horse-racing (including trotting, and greyhound racing.
South Australia	On- and off-course betting on horse-racing and greyhound racing; Lotteries, including Lotto, Bingo, Football Pools and Sweepstakes.
Tasmania	On- and off-course betting on horse-racing; Casinos.
Victoria	On- and off-course betting on horse-racing and greyhound racing; Lotteries, including Football and Soccer Pools, Bingo.
West Australia	On- and off-course betting on horse-racing and greyhound racing; Lotteries.

Despite these variations, several general comments can be made about Australian legal gambling.

Australians are avid gamblers. More gambling occurs in Australia, on a per capita basis, than in any other nation in the world.[221] In the 1970s, this figure for all of Australia was estimated to be between $160 and $250 per person with gambling in Tasmania showing a much higher average.[222] In 1981, figures for Tasmania show an amount of $512 per person.

Even excluding the amount gambled at the two casinos in Tasmania, which cater in part to the tourist market, the figure is still approximately $373 per person.[223]

B. Types of Gambling

(i) Racing: Each State and Territory has both on-track and off-track race betting. Thoroughbred, harness and greyhound racing, in that order, are all popular. Racing is generally carried out at the club level with various "associations" governing the sport and governments supervising the gambling.

On-track betting is carried out by "licensed bookmakers" and on-course totalisators.[224] The bookmakers are licensed by the governments through the body controlling race gambling (for example, the Racing and Gaming Commission in Tasmania) and on-course totalisators are allowed as required by the gaming authority. With respect to licensed bookmakers, in the Australian Capital Territory, for example, the bookmakers can only accept bets at bona fide race meetings. They may accept bets on local and interstate races. A 1% turnover tax is levied by the Gaming and Liquor Authority and a 1.5% turnover tax is levied by individual racing clubs.[225]

Totalisator Agency Boards (T.A.B.s) are, since less than one-half of race gambling is carried out on the course, used to control off-track betting. They were first established in Western Australia and Victoria in 1961, and Tasmania in 1975.[226] These boards (T.A.B.s) are government-appointed bodies that control off-track betting and provide assistance to the sport and revenue to the authorities. Betting by post, telegram and telephone is generally permitted if the customer has a deposit on account (no credit is allowed). Interstate betting is also permitted. For example, in the Australian Capital Territory the system is such that all monies wagered on a particular type of bet on a specific race are pooled, a 15% levy is taken off and the remainder distributed to all winning bettors.

Of the 15% levy, 2% is returned to the racing industry and 13% retained by the T.A.B. to cover administrative costs. Any excess or profit is forwarded to the Community Development Fund for allocation by the Minister of the Capital Territory to charities and other community groups. In the year August 1, 1980 to July 31, 1981, the turnover of the T.A.B. was approximately $29,000,000. The T.A.B. during this period maintained two outlets at race tracks and twenty-four outlets in suburban shopping centres.[227]

(ii) Poker Machines: Only New South Wales and the Australian Capital Territory (Canberra) have poker or slot machines. These are located in licensed or registered "clubs" which also provide entertainment and other social activities.

Of the money put into poker machines, 87% must be returned to the player, 1.3% is forwarded to the Community Development Fund and the remainder retained by the Club. In the year August 1, 1980 to July 31, 1981, total poker machine turnover was approximately $80,000,000.[228]

There has been much criticism of the poker machines due to the financial hardship suffered by the families of compulsive gamblers, therefore, attempts to legalize them in other states have failed.[229] This criticism increased due to the findings of the Moffitt Commission which included allegations of an infiltration by organized crime into the poker machine gambling business.[230] Interestingly, Tasmania, which has legalized casinos, does not permit slot machines even in the casinos themselves.[231]

(iii) Lotteries: Lotteries seemed to have declined in popularity but still show a significant presence in the gambling market. Lotteries are usually government-run, but there are some lotteries that are run jointly with private companies.[232] Lotteries take several forms--ordinary lotteries, lotto games and a new "Instant Lottery". Often, religious and charitable organizations are permitted to conduct such games as bingo, "Lousie-Lousie" and "tombola".

(iv) Soccer Pools: Soccer pools seem to have been introduced in the 1970's and are based on the United Kingdom model.[233] Several of the states have them but it seems that they have never commanded much of the gaming market.[234]

(v) Minor Gaming: Like other countries, Australian States allow groups and organizations of a charitable nature to run lotteries, bingo, "housie-housie", "tombola", "lucky envelopes", raffles, etc., to raise funds. They are licensed and controlled by some governmental authority and the emphasis is on non-private, non-commercial fund-raising for "good causes".

(vi) Casinos: Casinos are presently located in Tasmania and the Northern Territory and several other states are investigating the possibility of establishing casinos.

Tasmania was the first state to pass the enabling legislation with regard to casinos[235] and has had its two casino operations studied by the Northern Territory Government. This study resulted in the passage by the Northern Territory of the Casino Development Act, 1978, and the Casino License and Control Act, 1979. The latter Act contains the agreements which were reached between the Northern Territory Government and the private developers who would erect and operate the casinos.

C. The Casino Industry in Australia

(i) Tasmania:

Casinos are allowed in Tasmania in Hobart (in the southern part of the island) and Launceston (in the northern part of the island). The original agreement for the Wrest Point casino gives as a stated purpose the establishment of a tourist hotel of international standing at Hobart. Likewise, the Launceston casino is part of a holiday resort country culb.[236] The attraction of tourists was the main aim of the Government's decision to allow casino gambling in Tasmania. Standard casino games are played (with the above-mentioned exception of poker machines) such as Roulette, Punto Banco and Blackjack.

The casinos are under the control of a non-police Government Inspectorate, exercising control under the Wrest Point Casino (License and Development) Act, 1968.

(ii) Northern Territory

In late 1978, the Northern Territory Government approved the erection and licensing of casinos in the Northern Territory. To enable the Government to proceed, a short Act (No. 133 of 1978) was introduced and the principal Act (No. 62 of 1979) commenced on June 29, 1979.

There are two casinos; one located at Alice Springs and the other at Darwin. The former has only been in operation since July of 1981 and no data are presently available concerning its operation. The Don Casino at Darwin has been in operation since September 22, 1979, and the conclusion reached to date, is that the Darwin way of life does not seem to have been adversely affected by the casino's operations, nor has there been an adverse effect on police operations; no specifically-related increase in crime has been noted.[237]

The successful licensee is selected by a panel consisting of a Racing and Gaming Commission representative, a senior Treasury Official and the Crown solicitor. The Don Casino is managed by the licensee and is under the ultimate control of the government through the Casino License and Control Act, 1979.

A good deal of security is provided by the licensee and the following observations have been made by the employees and the police. It is apparent from the list that there is concern regarding the amount of gambling done by the locals but the conclusion seems to be that casino gambling is not proving to be overly consuming for the non-tourist population.

(a) The number of people in the casino during the daytime operations is minimal and those gambling generally play on the low stakes tables.

(b) During night operations, tourists are more prominent and are identified through their nervous approach to the games and in the amounts of money they wager.

(c) Locals tend to be more confident but bet in much smaller amounts.

(d) Locals appear to dominate the other facilities in the complex such as the restaurant, cabaret and lounge bars.

(e) The cost of drinks is significantly higher than a normal club or hotel and, therefore, tends not to attract after work drinkers.

(f) Casino activity seems to only gather momentum about 7 p.m. - 8 p.m. and appears to reach a peak about 11 p.m. - midnight.

(g) Locals in the casino decline dramatically after midnight.

(h) Casino management is very conscious of the social consequences with locals and keeps a close eye on their activities.

(i) The standards of dress rules that apply are strictly enforced.

(j) A high percentage of people in the casino appear to be observers and often leave without gambling on the tables.

(k) There is no evidence of undesirables and little evidence of intoxicated persons in the casino.

(l) The general impression is one of a social get-together, especially with locals, as they appear to be there in groups of 3 to 4.

As well, the Northern Territory Police have concluded:

(a) There has been no evidence of related criminal activity or casino malpractice.

(b) There has been no indication of increase in crime since the opening of the casino.

(c) On the question of drugs, we are of the opinion that any person gambling seriously would want to be sober and clear-headed, which tends to rule out the question of drugs changing hands in the casino.

(d) The effect of the casino on the economy of the Northern Territory has been beneficial and it has had no significant, detrimental effect on the social and economic well-being of the community.

Pursuant to s. 50 of the Act, the Treasurer of the Northern Territory has caused to be issued a number of "Directions" to the licensee. These Directions are quite detailed and lengthy. The list includes:

1. No credit bets--but personal cheques may be cashed at the cashier's desk.

2. No count of the drop boxes shall take place except in the presence of a Gaming Commission inspector who shall be seated next to the sheet cashier and who shall sign the completed count form.

3. No company employee who is a member of the gaming staff shall accept a tip from any person.

4. There shall be displayed at each blackjack table during the approved hours of gaming an "advice to players" notice outlining advantageous card rules for gambling.

5. No person shall be served with intoxicating liquor at the gaming tables and no person in possession of intoxicating liquor shall be permitted to play any game.

(iii) Control of Gaming Areas

The basic tenet of the security methods utilized is to anticipate and prevent incidents rather than endeavouring to deal with problems once they have arisen. All gaming areas are controlled by the following methods:

- "Pit-boss" controls between three and six tables depending on the game being played in the area.
- A floor manager supervises all play within the gaming room.
- Either the Casino Manager or his assistant is present throughout all hours of gaming.
- Government inspectors in plain clothes are present throughout the hours of operation of the casino.
- Hotel-Casino security officers, also in plain clothes, are present throughout the gaming period.
- Uniformed security doormen check all patrons entering and leaving the single access door to each gaming area.

- Regular inspections of all casino areas are made by plain clothes officers of the Northern Territory Police Force.

- Security cameras, mounted on the ceilings of each casino area and in clear view of the patrons, allow all games to be supervised from a central security control area.

- Facilities for instant video tape are available to the Security Control Supervisor and in the office of the Casino Manager to allow suspected malpractices to be carefully checked at any time.

- Purchase of gaming chips is confined to tables and all cash transactions are supervised by an inspector.

- Chips can only be redeemed at one central cash desk within the casino area.

- Patrons winning substantial amounts of money are offered the choice of cash or a Hotel-Casino cheque.

- Cash boxes which are locked into position on each table at the beginning of play are removed regularly under escort to a top security area.

- They are then opened in the presence of Government supervisors.

- Counting of all receipts from the three gaming areas does not begin until security control activates a video tape T.V. camera which covers the entire count room.

- Video tapes of each count become a permanent record and are available to the Gaming Commission and the Treasury at all times.

- All instruments of gaming--playing cards, dice, roulette balls, etc.--are held under strict security by Government inspectors, except during hours of operation. All cards are destroyed at the close of each day's play. The Government undertakes regular checks of dice and roulette balls by microscope and weight equipment.

D. Betting Behaviour and Tax Revenue Gains

Legal gambling in Australia is relatively wide open and provides an extensive list of choices for the active Australian gambler. There are three types of racing with "normal" and "exotic" bets, off-track betting, several types of lotteries, a wide variety of minor games, as well as soccer pools. There seem to be few problems with these more "traditional" forms of gambling. Casinos in Tasmania and the Northern Territory seem to present few problems. The only obvious problem which has occurred has been with the poker machine.

As mentioned above, poker machines have caused concerns about social costs (gambling addicts) and organized crime. New South Wales has had them since 1956-57 and since then only one Territory has followed suit--the Australian Capital

Territory. Since 1956, States have legalized off-track betting, added lotteries, and allowed soccer pools, but no State has accepted poker machines. The above-mentioned problems and the dramatic amounts bet no doubt are the reasons for this. In 1974/75 it was estimated that $2 Billion was spent on poker machines in New South Wales alone. This was based on a tax figure of $72 Million. In 1981/82, the tax figure was $150 Million which would seem to indicate that over $3 Billion was spent on slot machines that year.[238]

There seems to be little concern over types of gambling (with the exception of casinos and slot machines which as stated above have limited State acceptance), but there are concerns over the amount bet in Australia. To counter the concern about compulsive gambling, some of the States have come to rely upon the revenue from legal gambling for support of "good causes". For example, Western Australia earmarks a certain percentage (20% of revenues from lotteries) to a fund created by the Hospital Fund Act, 1930.[239]

The following chart outlines the amount bet in each State and the Government revenue which is generated.

AUSTRALIA: AMOUNT BET AND GOVERNMENT REVENUES.

State	Gambling Forms	Amount Bet	Government Revenues
Australian Capital Territory 1980-1981	T.A.B.	$ 29 million	?
	Poker Machines	$ 80 thousand	?
	Lotteries: "New South Wales" "Super 66" "Tattersall Consultation" "Tattersall Instant Lottery" "Lotto" "Soccer Pools" "Tatts Lotto"	Re lotteries:	unknown amounts were bet; unknown revenues. However, the tax rate was approximately 30% for all types of lotteries.
New South Wales: 1981-82	Lotto	$180 million	$ 61 million
	Lotteries	$100 million	$ 37.5 million
	T.A.B.	$ 1 billion	$ 85 million
	Licensed Bookmakers	$900 million	$ 13 million
	On-Course Totalisator	$ 40 million	$ 20 million
	Poker Machines	N/A	$150 million
	Soccer Pools	$ 6 million	$2 million
			$368.5 million total
South Australia	Soccer Pools	$ 2 million	$ 1/2 million
	Lotteries	$ 60 million	?
	On-course totalisators	$ 24.6 million	?
	licensed bookmakers	$174.5 million	?
	T.A.B.	$133 million	?
Tasmania: 1981/82	T.A.B.	$61.8 million	$16 million from all gambling - no breakdown
	On-Course Totalisators	$ 5.4 million	
	Licensed Bookmakers	$48.9 million	
	Casino	$68 million	
	Lotteries (Tattersalls)	$35.1 million	
	Soccer Pools	$ .9 million	
	Minor Gaming	$17.1 million	
Victoria: 1980-81	T.A.B.	$687 million	$ 36 million (includes football pool revenue)
	Soccer Pools	$.658 million	
	(no other revenue or betting information available as of 28/8/82)		
Western Australia: 1980-81	T.A.B.	$234 million	$14 million
	On-Course Totalisator	$ 39 million	$ 2 million
	Licensed Bookmakers	$105 million	$ 1.4 million
	Lotteries	$ 33 million	$10 million
			$18.4 million total

No information on the other States and Territories.

Casinos and poker machines, however, do seem to present some problems. There may be a long-term cause for concern, in any event, if the amount of money bet captures a huge percentage of the recreational dollar and causes social disruption. An interesting response to this problem can be found in Western Australia's Race Betting Control Act:

> 25. (1) Upon proof being given to the satisfaction of any two Justices of the Peace that any person by excessive betting is likely to impoverish himself to such a degree as to expose himself or his family to want, such justices may order that no bookmaker shall bet with such person for not exceeding the space of one year.[240]

This remark must be qualified by the comments expressed by the Northern Territory Police, which generally paint the Don Casino at Darwin as being a well-controlled establishment. The revenue generated, of course, must be balanced off against any disservice being done to the "gambling-addicted" residents.

State	Racing			On-Track Betting		Off-Track	Poker Machines	Casinos	Lotteries	Minor Gaming	Soccer Pools
	Harness	Greyhound	Thorough-bred	Licensed Bookmakers	On-track Totalisators	T.A.B. Totalisator Agency Boards	(Slot Machines)			(Bingo, raffles, lottery)	
Australian Capital Territory	X	X	X	X	X	X (1964)	X	No	X	X	?
New South Wales	X	X	X	X	X	X (1964)	X	No	X	?	X
Northern Territory	X	X	X	X	X	X	No	X	X	X	?
Queensland	X	X	X	X	X	X (1962)	No	No	?	?	?
South Australia	X	X	X	X	X	X (1967)	No	No	X	X	X
Tasmania	X	X	X	X	X	X (1975)	No	X	X	X	X
Victoria	X	X	X	X	X	X (1961)	No	No	X	X	X
Western Australia	X	X	X	X	X	X (1961)	No	No	X	X	?

"X" = Yes

"?" = Unknown

3. Legalized Gambling in New Zealand

A. Forms of Legalized Gambling

New Zealand allows several forms of legalized gambling but the emphasis is on non-commercial gambling with the proceeds going to 'good causes'. Private, non-commercial gambling (for example a monthly poker game) is not illegal however. The main statutory instrument is the Gaming and Lotteries Act, 1977, whose purpose is contained in its preamble:

> an act to make better provision for the conduct of games of chance, prize competitions, and lotteries for amusement and for raising of funds for certain purposes while continuing to prohibit the conduct of such activities for commercial gain ...[241]

A carefully controlled scheme of organized non-commercial gambling for charitable purposes with strict licensing provisions, prize limits, and audit and proceeds directives, is provided for in the Gaming and Lotteries Act, 1977.

(i) Lotteries

Lotteries are the main form of gambling used for charitable purposes. Small lotteries (less than 50%) do not require licenses. The local police can license medium-sized ones (less than $500), and large lotteries must be licensed by the Department of Internal Affairs. In 1981, for example, 2,735 of the large lotteries were licensed by the Department of Internal Affairs with the following prize limits: local $10,000, regional $15,000, and national $20,000.[242] The statute also allows "licensed promoters" to sell their services as oganizers of fund-raising gambling (5 were in operation in 1981).[243] They must be licensed by a magistrate and comply with the general rules and audit provisions designed to ensure that proceeds, less expenses and prizes, go to the chartiy.[244]

National or government lotteries are allowed by the Act and are controlled by the New Zealand Lottery Board.[245] The proceeds from the "Golden Kiwi", for example, are allocated to Art Councils, film development, medical research, sports groups, the aged, etc.[246] In 1981, gross proceeds from national lotteries were $62 Million. The proceeds for the "good causes" were $12 Million.[247]

(ii) Bingo

Bingo, known in New Zealand as "housie", is another important fund-raising form of gambling. Any organization wanting to run a game needs to get the permission of the Department of Internal Affairs, inform the police a week in advance and meet the strict limits on hours and prizes.

(iii) Prize Competitions

Raffles or "prize competitions" are less popular (only 56 licensed in 1981 [248] and the same rule, that profits must go to charity, is applied. Gaming sessions (commonly known as "Funny Money" or "Las Vegas" nights) are increasing in popularity. Five hundred and seven (507) licenses for this method of charitable fund raising were issued in 1980-81.[249]

(iv) Horse-racing

The Racing Act, 1971, authorizes pari-mutuel and off-track betting in New Zealand. The New Zealand Racing Authority (the Authority) under the terms of the

Act, supervises the gaming and the operation of the sport.[250] The Authority controls licenses, sets racing dates, and settles disputes between the Racing and Trotting Conferences, the Greyhound Racing Association and the various "Galloping", hunt, trotting and greyhound racing clubs.[251] The Racing Authority also distributes accounts "taxed" from betting that are paid to upgrade facilities, improve the breed and raise the stakes paid at races (amenities account, stake subsidy account).[252] The Conferences control the Clubs and set the racing rules. The Racing Authority sets out the number of licenses (in other words, racing days) and the Conferences allocate these to the Clubs.[253]

The on-course and off-course betting system is supervised by the Totalisator Agency Board (T.A.B.).[254] The "profits" are paid to the New Zealand Racing Authority for allocation to the Clubs as well as to the various funds.[255] It is also possible to bet on races held outside New Zealand through the T.A.B. Pari-mutuel betting or the "tote" has been in operation since at least 1913 when New Zealand was the first country in the world equipped with an automated, mechanical totalisator or pari-mutuel betting system.[256] Off-track betting was added in 1950.[257]

Race betting is taxed at a rate of 8.5% for on-course and 9% for off-course betting.[258] The T.A.B. and the Clubs take 7.5% in ordinary bets and 10.18% on "exotic" bets.[259] The "stakes subsidy account" and the "amenities account" amount to .5% of the wagers. The Clubs and the T.A.B. also retain "unpaid fractions" (rounding down payouts to denominations of $5).[260] In 1979-80 off-course betting amounted to $365.5 Million and $136 Million was bet on-course.[261]

In general, racing in New Zealand is the most popular form of legalized gambling. With government control, revenue is collected but there is more emphasis on attempts to improve the sport with the accounts and to preserve the older and traditional institutional framework of the sport (clubs, associations, etc.). The clubs are encouraged to provide higher stakes since high stakes are required before they qualify for the stakes subsidy scheme. The stakes subsidy fund is designed specifically to redirect funds to the owners, trainers and jockeys who provide the racing. In 1981, it was estimated that racing would take in $5 Million per year. This figure would then be distributed:

$2.5 M	to on-course Development Account
900,000	to Stakes Subsidy Fund
900,000	as extra commission to T.A.B.
700,000	as extra commission to racing clubs[262]

B. Summary and Conclusions

In conclusion, New Zealand is a fairly "restrictive" society as far as legalized gambling is concerned, with the exception of racing. The reliance on governmental control is not wholly out of concern for the raising of revenue but rather to prevent the perceived evils of widespread commercial gambling. In the Report of the Department of Internal Affairs for the year ending March 31, 1981, mention is made of repeated representations to have casinos legalized to benefit tourism (for example in the cities of Wellington and Rotorua) and to raise revenue. The policy of prohibiting casinos or gaming clubs has been reviewed twice by the present government and has been reaffirmed. The main reason seems to be a fear of creating an atmosphere in which organized crime could flourish. This typifies New Zealand's attitude towards legalized gambling: an emphasis on governmental control and limited gambling, without a dependence on gambling revenue. New Zealand allows "Las Vegas" nights (referred to as "funny money" nights) for fund raising but the tolerance is restricted to the limited stakes and the non-commercial nature of these gambling evenings.

IX. EUROPEAN CASINO MODEL

1. Introduction: Key Features

In contrast to what might be called the American model of "casinos for revenue" or the English model of "casinos to centralize and control vice", there exists a third and arguably distinct approach which will here be termed the "European Casino model". While specifying these three models, it is recognized that these are only theoretical constructs and in practice there are many areas of overlap between the different types.

The key feature of the European approach to casinos is the high degree of integration of the casinos into other resort activities within a particular geographical area. The casinos are permitted in spas and vacation places, but they are not intended to serve as a source of rejuvenation for a dying resort area. This difference is important since it infers that the casino will not be the sole raison d'être of a city or recreational site. Stringent restrictions can be placed on the casino's operations without there being a concern that the casino will threaten to shut down its operations, and thereby bring about a critical loss of revenue to the government and unemployment to the area.

Since the area is not dependent on the casino industry, control procedures are less likely to be compromised. Rather than the gawdy recruitment of the Las Vegas type of casino, the European model emphasizes elegance and discretion. The casinos become part of the resort area and serve as hotels, restaurants, and entertainment for diversified tourist activities.

2. Legalized Gambling in France

France offers many different kinds of gambling opportunities. Casino games operate in resort casinos and private clubs, pari-mutuel on-track and off-track betting on horse and dog races is allowed and a national lottery exists.

A. Casino Gambling

Casino gambling has a long history in France. It is presently authorized by a 1907 law, but as early as 1806, Napoleon legalized casino games in certain resort towns.[263] In early 1982, there were 144 casinos[264] operating throughout the country as well as 36 gaming clubs,[265] and an estimated one million gamblers play in casinos or clubs every year.[266] In 1979, 25 billion francs were bet at the gaming tables--80% of it by foreign gamblers.[267]

(i) Control of Casino Gambling

Casino gaming is very strictly controlled. Only casinos in legally recognized tourist areas can operate games and only during the tourist season. Casinos must receive a gaming authorization from both the municipal government and the Ministry of the Interior.[268] Moreover, the casino must sign a contract with the municipality known as a "cahier de charges", where it agrees to put on quality artistic events and to pay a certain percentage of its revenues to the municipality.[269]

At the national level, a special gaming commission composed of public servants and elected officials from both the local and national level, investigate the casino's application and advise the Minister of the

Interior as to its suitability.[270] The Ministry will then draft a gaming authorization, which indicates what games are to be allowed, the opening and closing hours of the games room, and the length of the authorization.

In addition to the regular casinos, the second type of gaming establishment is the "gaming circle". These are private clubs which are allowed to operate casino-type games to help finance the larger organization. Gaming circles have existed since the beginning of the 19th century and were not extensively regulated until the adoption of a law in 1923.[271] Their importance stems from a law adopted by Napoleon III in the middle of the last century which banned all casinos from the Paris area[272] and in 1920, a law was adopted which prohibited any casino within 200 km of Paris.[273] Gaming circles thus provide a substitute to casinos for Paris gamblers. However, the difference between casinos and gaming circles was, and is, more theoretical than real. Casinos were intended primarily for gambling, and gaming circles were to be only one of a number of activities at a club. Since the Second World War, gaming circles have become de facto casinos with the gambling activities dominating or replacing other club activities.[274] There are presently fifteen gaming circles in the Paris region which have a total of 500,000 members. A further fifteen, operating throughout the rest of the country, are minor ones since the 15 Paris circles collect 95% of all gaming circles revenues.[275]

The application for a gaming authorization at a gaming circle is put forward by the club president, the treasurer and the games director. It is first reviewed by the Prefect who forwards it to the Minister of the Interior who renders his decision after the games commission submits its opinion. Casinos and gaming circles are not allowed to operate in the same locality.[276]

In both the gaming circles and casinos, the administration and all games room employees must receive the approval of the police and the Ministry of the Interior. The Ministry must be notified whenever a games room employee quits or is fired.[277] Games room employees may receive tips, but not directly. The tips are deposited in a tip box and are shared equally among the employees. Inside the games room, employees must wear clothes without pockets and female employees may not be given any gaming position.[278] In order to protect the patron, detailed information regarding the rules of play must be displayed within the games room. This information must outline what employees may or may not do, what bets are allowed and what the pay-offs are for each bet in each game.[279]

(ii) Participation in Casino and Gaming Circle Gambling

To enter the games room of a casino, the client must pay an admission price, receive an admission card, and show proper identification. Minors and military personnel are not permitted entry. Executives or employees may not play any of the games, even when they are off work and they are not allowed to receive any part of the winnings nor personally loan any money to the players. The Ministry of the Interior compiles a list of undesirable persons who must be barred from the games room. Inveterate gamblers or their families can apply to have their names added to the list.[280]

Only club members in good standing may enter the games room of a gaming circle. To become a member, a person must be sponsored by two existing members. His application is then reviewed by the club's games committee which may launch an investigation into the applicant's moral character. French citizens must wait a full five days and foreigners two days before their membership becomes effective. Women are legally barred from membership in gaming circles as it is strictly a men's club.[281]

(iii) Taxation

The National Government taxes casino gaming revenues progressively at rates beginning at 10% for revenues under 290,000 francs and rising to 80% for revenues over 49,500,000 francs.[282] However, casinos are allowed a basic tax exemption equal to 25% of gambling revenues before calculating the tax[283] and they can also qualify for a special exemption of an additional 10% if they provide costly artistic events of exceptional quality or invest in tourist accommodations in the area.[284]

In addition to National taxes, casinos also pay taxes to the municipality which can amount to a maximum of 15% of gaming revenues. If the combined marginal tax rate exceeds 80%, the national tax rate is reduced until the combined tax rate equals 80%. The municipality also receives 10% of the tax collected by the national government, but this amount cannot increase municipal revenues by more than 5%.[285] Tax is collected twice a month after the visit of a government accountant who verifies the gaming revenues and calculates the tax.[286]

Gaming circles are taxed rates between 13% for revenues under 100,000 francs and 68% for revenues over 1,500,000 francs. Unlike the casinos, gaming circles do not receive any tax exemptions.[287]

In 1979, casinos paid 244.5 million francs in taxes on gambling revenues of 630 million francs. Over 61 million francs of this tax money went to the municipalities. The 10 largest and most profitable casinos paid between 52% and 66% of their revenues to the government as taxes. Gaming circles paid taxes of 29.2 million francs on revenues of slightly over 50 million francs.[288]

Casino operators complain that the Government is demanding too much revenue and is driving them into bankruptcy. In 1980, one out of every three casinos was on the edge of bankruptcy, one in two was losing money and two-thirds had no cash reserves. Only 10 out of 140 casinos showed an improved financial position. Casinos argue that these excessive taxes are even more of a burden because of the numerous and expensive obligations imposed on them.[289]

(iv) Corruption

Despite strong control measures, many scandals have erupted over the years. In 1979, the new head of the games brigade of the police launched an active investigation into the casino operations. During an investigation of 455 games and 4,012 employees, widespread evidence of profit skimming, tax evasion, corruption and fraud were uncovered in many of the casinos. In total, 278 gamblers, dealers and owners were indicted. In one casino, every employee, except for one cook, were involved in a scheme to under-report revenues and distribute them among the co-conspirators.[290] Traditionally, casinos recruited dealers from the families of permanent games room employees and trained them through a lengthy apprenticeship program. In 1975, a school for dealers was established at Nice, with an aim toward professionalization.

Paris gaming circles have an even more colorful history. Since the early 60's, the major gaming circles have been controlled by a Corsican mafia.[291] From 1963 to 1973, a "games war" was fought between the rival factions for control of the circles which resulted in over 30 deaths. The two winners divided the city into two spheres of influence in 1973. However, one of the winners, Marcel Francisci, was murdered by a professional hitman in January 1982, leading Paris police to believe that a new "games war" was about to erupt.[292]

In France, evidence reveals that casinos and gaming circles are used for passing counterfeit currency. A case was uncovered in 1979 in the Nice-Monaco casinos involving 268 counterfeit 500-franc notes. Other on-going swindles and fraud schemes occur periodically in many of the French casinos.

B. Horse-racing in France

Horse-racing in France first began seriously in the reign of Louis XVI[293] and has continued to this day (it was stopped temporarily during the French Revolution). As of 1979, there were 342 race courses under the control of the Ministry of Agriculture and subject to surveillance by the

Ministry of the Interior. A 1981 law authorizes pari-mutuel betting at the race track and, since 1930, off-track betting has been allowed. Horse-racing associations control on-track and off-track betting.[294] These associations are non-profit organizations whose formal goal is to improve horse breeding.[295]

(i) Control of Horse-racing

Statutes and regulations give these horse-racing associations a great amount of discretionary power over many aspects of the sport. The government maintains control at an arm's length. New race tracks and new associations must be approved by the Minister of Agriculture with the budget of each association being subject to Ministry approval.[296]

The legislation regulating horse-racing has developed in a piecemeal fashion over the past century. Horse-racing associations, which evolved outside of any regulation during the 19th century, have been brought under some measure of control, but still retain a large degree of independence. The associations exercise daily control over racing. They draw up the racing calendar, racing program, decide what prizes will be awarded, handicap the horses and handle the publicity.[297] They have had a legal monopoly over on-track betting since 1891 and over off-track betting since 1930.

There are 5 racing associations in the Paris area and 315 in the rest of the country.[298] The Paris-based associations and a few of those in the other regions are position, but most of the racing associations are poor and depend for their existence on subsidies from the National Federation of French Racing Associations. This national organization was created in 1919 to coordinate the actions of the racing associations and is controlled solely by them.[299] It is composed of a national federation, and 10 regional federations who are responsible for drawing up the racing calendars for the racetracks in their particular region.[300]

(ii) Off-Track Betting

Pari-mutuel betting, on and off the track, is reserved by law for the racing association. The betting is managed by a specialized management company that is controlled by a board of directors, composed of representatives from the Ministry of Agriculture, the Ministry of Finance, and the National Federation.[301] This management board makes all the important decisions about the organization and the daily management of off-track betting. The books of the company are audited by the national federation and by the Ministries of Agriculture and Finance.[302]

The off-track betting organization is very liberal and appears to exist to make it easy to bet. Betting shops are set up in local tobacco shops, cafés and taverns. Once a bettor has set up an account, he can phone or mail in his bets. There are even special "race-to-race" shops, where gamblers can bet immediately prior to the race as if they were at the race track.[303]

(iii) Taxation

In 1980, off-track betting produced revenues of 19 billion francs and on-track betting produced revenues of 3 billion francs. Of the total revenue (21.9

billion), 7 billion was paid in taxes. Off-track betting comprises 86 percent of all French horse-race betting. The off-track betting corporation, Pari-Mutuel Urbain, operates its own shops which handle only regular bets, but 85 percent of OTB takes place in licensed cafés or tobacco shops.

The Government taxes the amount of money bet, rather than the revenues. The tax varies between 14.55% and 15.25% depending upon whether it is off-track or on-track betting, inside or outside of Paris. However, there is a special tax of 30% on the "tiercé" bet, where the bettor must pick the first three horses in the race. Tiercé is the most popular bet with approximately 44% of the money bet on this race even though it is held only on Sundays and holidays.[304] In addition, there is a 3% stamp tax.

This total tax revenue is shared among many organizations which are allocated a certain percentage of the bets. Racing associations receive between 7.95% and 9.5% of the bets with 1.5% set aside for horse breeding. The rest is shared by various government agencies: general fund, national fund for the development of water mains, City of Paris, etc.

C. Lotteries in France

Lotteries are allowed in France, but they are strictly regulated. A national lottery run by the government has existed since 1933.[305]

It is a weekly lottery, with 40% of the proceeds going to the government. "The lottery operates through a sales company which receives a 5% commission. It is required that part of the commission be given to charity, with proceeds from various blocks of tickets allocated to specific charities."[306]

Most private lotteries are illegal. The Administration has the power to allow lotteries that have a charitable goal or aim to encourage the arts. Municipalities have the legal right to organize lotteries to help finance their firefighting service. Under certain conditions, lotteries may also be allowed at fairs.[307]

In addition to the revenue that is given to the agencies, the Loterie Nationale fulfills a social function by employing disadvantaged groups. The sales company licenses individual ticket sellers, usually pensioners and disabled people, who operate from street booths or cafés.[308]

In 1979, "Loto" and the "Loterie Nationale" sold 14 million tickets worth 4.5 billion francs, out of which the government received its share of 1.4 billion francs.[309]

D. Conclusion: Importance of French Gambling Controls

The French have always seen gambling as a fact of life to be accepted, and not as a social evil to be stamped out. Their gambling control has grown incrementally over a long period of time as adjustments were needed, and therefore their legislation is the result of long practical experience with legalized gambling. The primary goal is to ensure that the government gets its share of tax revenue while providing high quality diversified resort facilities to tourists, rather than controlling the spread of illegal gambling or diverting funds from organized crime. The indifferent attitude of the authorities to the fact of widespread criminal influence in casinos and gaming circles seems to demonstrate this.

E. Additional Examples of Legalized Gambling: European Model

(i) Monaco

Only limited information is available on Monaco's casino industry. Previously, the industry had been controlled by Aristotle Onassis, but it became a state monopoly when Prince Rainier bought out the Onassis interest in the private corporation. With a 70% share of the stock, the State dictated the strict regulations that were imposed upon Monte Carlo Casino and upon a more recent casino extension set up by Société des Bains de Mer in association with the American Loews Company.[310]

The games allowed are the same as those allowed in France. Monegasque nationals and individuals holding Monegasque residence permits are by current regulations prohibited from entering gaming rooms in the Principality; however, these regulations are not always enforced. There seems to be some evidence that the Monte Carlo Casino is more strictly run and has less counterfeiting, fraud or other forms of corruption than the newer casino which was set up in association with the American Loews Company.

After Princess Grace's death, reporters were questioning whether the Prince would be interested in holding the casino monopoly which will come due in 1987. Princess Grace appears to have been the strongest advocate of keeping illicit money and control out of the Principality.[311]

(ii) Switzerland

The Switzerland casinos are an example of restricted "recreational" gambles. The strict controls on gambling include the playing hours (generally, a midnight closing time) and the limit of a single placed bet (5 francs, or roughly $3.00). Swiss casinos, by the very fact of the minor wagering which takes place, are not large-scale operations. They seem to be operated mainly for "social" purposes, both for residents and tourists. Roulette is the only game of chance which is allowed to be played and the federal Department of Justice has the power to decide if a certain game of chance is considered to be "roulette".

The governing legislation is the federal Constitution, specifically Article 35. Pursuant to this Article, an ordinance was promulgated (No. 935.53) in 1929. While the individual cantons have authority to license the owners of the casinos, this licensing is subject to the federal Council's discretion. The Council may completely forbid the operation of a casino which violates the regulations.

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185 Ibid., See Schedule 2, para. 24 and para. 25(1)(2).

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224 The "totalisator" is a mechanical device for betting against other bettors rather than against the bookie.

225 Australian Federal Police, Letter, (August 11, 1982).

226 Australian Encyclopedia, "Gambling," p. 133. The Boards came into the remaining States during the 1960's with the exception of the Northern Territory which developed a system of licensed off-track bookmakers.

227 Australian Federal Police, Letter, (August 11, 1982). It is assumed that all figures coming from this letter refer to Australian dollars.

228 Australian Federal Police, Letter.

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Appendix A

Three Landmark Studies as Background to Legalized Gaming

The Impact of Legalized Gambling

In 1974, the National Science Foundation within the United States funded a monograph entitled "The Impact of Legalized Gambling: The Socioeconomic Consequences of Lotteries and Off-Track Betting" by David Weinstein and Lillian Deitch. As the title suggests this study was limited mainly to two forms of gaming and issues concerning casinos were not discussed. The findings of this study are divided up into Economic Impacts on Government; Economic Impact on Individuals; Social Consequences; and Public Policy Issues. The main findings are as follows:

Economic Impacts on Government

1. Lotteries and OTB are not likely to be significant sources of government revenue in relation to total revenues. They do, however, provide additional funds in circumstances where it is not politically feasible to increase taxes.

2. Earmarking of lottery revenues does not necessarily result in a net addition of funds to the designated areas of expenditures. The more specific the earmarking, the more likely it is that the particular will be benefitted.

3. Stability of lottery revenues can be obtained only with constant promotion. This encourages increased advertising, intensification of game variations, and introduction of new game forms.

4. The economic benefits derived from lottery and OTB must be weighed against potential revenues lost in other tax areas and the costs and benefits of alternatives means of raising the same revenues.

Economic Impacts on Individuals

1. Similar percentages of all income classes participate in state lotteries. Lower income persons do not appear to bet more money than those with higher income. However, the same amount bet necessarily represents a larger proportion of lower incomes, and in this sense the lottery operates in the same manner as a regressive tax. OTB participants tend to be somewhat more concentrated in middle and upper income groups, making this form of betting somewhat less regressive.

2. Regressivity of both lotteries and OTB is offset by progressive taxation of winnings and by the progressive pattern of distribution of revenues among the beneficiaries. Furthermore, the degree of regressivity or progressivity of alternatives taxes which the state might have to levy in the absence of lotteries and OTB must also be compared before a judgement can be made in any specific case.

3. Lottery expenditures are a small part of the player's budgets, and participants do not devote significant time and energy to playing the lottery. There probably are no meaningful economic effects on the players or their families.

4. Four OTB participants on the average bet a larger proportion of their income than lottery players do. OTB average net betting losses represent a relatively small share of the average bettor's total budget but may require readjustment of expenditure patterns. Budgetary impacts on heavier bettors may, however, be substantial.

Social Consequences

1. State lotteries and OTB are not likely to affect adversely the personal, family, or work situations of the average bettor or his family.

2. It is unclear whether or not lotteries and OTB have increased the number of persons who bet and the average amount spent on public and private gambling combined. There is an increase in public gambling.

3. State lotteries have had limited impact on illegal gambling. OTB has noticeably reduced the volume of illegal horse-race betting.

4. Lotteries and OTB have not significantly reduced the total volume of illegal gambling, and hence do not appear to have reduced the corruption of public officials nor freed law enforcement resources from antigambling law enforcement.

5. Legalization of gambling appears to be the result rather than the prime cause of changes in public morality, but it may accelerate such changes.

6. Legalization of gambling has not generated serious institutional conflict, although OTB appears to have affected the racing industry.

7. Legalization of a major form of previous illegal gambling, such as off-track betting, may legitimize other forms of legal and illegal gambling in the public mind, possibly leading to some excessive betting and its attendant adverse consequences. There is not sufficient evidence to either substantiate or refute this hypothesis.

Public Policy Issues

1. Revenue and anti-gambling objectives of legalization of gambling may conflict. The conflict is likely to be more severe in the case of OTB than state lotteries.

2. Federal taxation of gambling winnings inhibits efforts of the states to compete with tax-free illegal gambling. Federal restrictions on lottery and OTB promotion are less of an inhibiting factor. The role of the federal government should be reviewed in light of the accelerated legalization of various forms of gambling.

3. Gambling, whether it is legal or illegal, appears to provide an escape from frustrated ambitions by offering the hope of a better life to people who otherwise have little expectations of improving their socioeconomic status. From this point of view, provision of a legal outlet can be construed as fulfilling a social need.

4. The role of government with respect to legalized gambling varies with the type of gambling and the objectives to be achieved. Prohibition, governmental operation, licensing of private enterprise, and unregulated legalization of specific forms of gambling are all appropriate positions under various circumstances.

5. Promotional activities are an intergral part of gambling ventures, both at the outset and while maintaining continuing interest. Excessive promotion may generate social costs exceeding benefits.

6. Various forms of gambling may lead to saturation of the gambling market. Legalized activities could become competitive with each other, rather than with other forms of consumption.

7. Because of their structure, various forms of gambling are likely to attract different audiences who possess different propensities for heavy betting. Legalization should be restricted to those forms of gambling which are likely to reduce the probability of harmful effects while achieving law enforcement, revenue, or other objectives.

Gambling In America

In 1976 The Final Report of the Commission On The Review Of The National Policy Toward Gambling, Entitled Gambling in America was published. This report was quite extensive and offered a large number of recommendations aimed at Federal, State and local governments, law enforcement agencies and privately operated gambling industries. I shall here outline those recommendations that relate to legalized gambling in a more general way and shall omit those that relate specifically to the United States.

National Gambling Policy

1. that Congress enact a bill to ensure the State's continued power to regulate gambling;

2. that the Federal Government, in the exercise of its regulatory and tax powers take care not to hinder State efforts to compete with illegal gambling operations;

3. that winnings from legal gambling entities be excluded from gross income for Federal income tax purposes;

4. that the Federal wagering excise and occupational stamp taxes be repealed.

State and Local Gambling Enforcement

1. that less emphasis be placed on enforcement against low-level gambling offenders and that State and county law enforcement agencies, in conjunction with prosecutors, direct their efforts against high-level gambling offenses, particularly bookmaking and numbers operations;

2. that specialized gambling units be created in State and large urban police departments;

3. that States consider removing statutory prohibitions against public social gambling;

4. that prison terms and substantial fines be imposed for major gambling offenders, particularly persons known to be associated with organized crime.

Legal Gambling Industries

The Commission studied five forms of legal gambling: Casinos in Nevada, pari-mutuel horseracing and dogracing, off-track betting, lotteries, bingo.

The recommendations include:

1. that States contemplating the legalization of casinos (1) incorporate a series of player protection provisions into State regulations; (2) establish Casinos that are operated by private industry rather than government; (3) refrain from building casinos in urban areas where lower income people reside;

2. that the on-track take-out in pari-mutuel racing be reduced in order to increase revenues to the racing industry,

the bettors, and ultimately, to the State, which will benefit from a more prosperous industry;

3. that racing commissioners be prohibited from holding any financial interests in racetracks within their jurisdiction and that States enact legislation requiring full disclosure of all financial interests in the operation of racing meetings;

4. that States fully inform the public of the odds of winning in all types of lotteries and limit their lottery promotions to advertisements informing the public of the existence and nature of the game offered and that the same advertising restrictions apply to government-operated off-track betting systems;

5. that State regulators require bingo operators to provide full public disclosure of the percentage of total wagers received by the operator, the players, and where applicable, the charity sponsoring the games.

Survey of American Gambling Behaviour

1. 80% of respondents nationwide favoured legalization of some form of gambling. But no single form received majority support for legalization in a State where it was not already legal. Opposition to legalization was strongest against numbers and sports betting - particularly on high school and college events.

2. More Nevadans gamble, more frequently, and spend more on gambling than the Nations' population as a whole. This indicates that the widespread availability of legal gambling increases the gambling population and rate of participation.

3. Participation in illegal gambling is greater in States where limited legal gambling is available than in States where no form of gambling is legal.

Illegal Gambling Industries

1. Single-event wagering would provide little revenue for the state and could create more customers for the illegal wagering against which the legal forms cannot compete. Therefore, the state should refrain from legalizing single-event sports wagering under the present system of Federal taxation.

2. If single-event wagering is legalized the States should prohibit against wagering on amateur sporting events.

3. The States considering legalization should provide for extensive public debate on the issue to take place (p. 4).

Gambling: A Review of the Literature

The Third Study - Gambling: A Review of the Literature, 1978 Home Office Research is divided into three sections: Unit Report, Part One: The Economic and Social Consequences of Gambling, Part Two: Gambling Behaviour: Determinants Of The Decision To Participate and Part Three: Gambling Behaviour: Determinants of Continued Participation. For our purposes here I shall outline the main conclusions from the literature contained within this survey.

1. It is essential to look at the various forms of gambling individually in order to assess the social and economic impact of legalization (p. 38).

2. The majority of gamblers gamble 'moderately' and budget for their gambling expenditures - this varies between the legalized gambling activities, i.e. off-track betting, gaming and bingo have the potential for excessive spending (p. 39).

3. Prison terms and substantial fines should be imposed for major gambling offenders, particularly persons known to be associated with organized crime.

4. The issue of the regressivity nature of gambling, when used directly as a method of revenue-raising needs to be considered. Cornish repeats Weinstein's and Deitch's comments that these gambling regressive taxes may be substitutes for other forms of taxes that could have been equally as regressive and that the 'taxes' may be redirected disproportionally toward the lower-class individuals. (Both of these arguments are unsubstantiated and questionable.)

Appendix B

ARTICLE 6A. TEMPORARY CASINO PERMITS

5:12-95.1 Eligibility and requirements

Notwithstanding any other provision of the Casino Control Act,[1] the commission may grant a temporary casino permit upon the filing by a casino license applicant of a formal request for same in accordance with such rules and regulations as may be promulgated by the commission and when, by the affirmative vote of four members, it finds by clear and convincing evidence:

a. That the applicant is a ~~corporate entity~~ person, as defined in section 37 of P.L.1977, c. 110 (C. 5:12-37);

b. That statements of compliance pursuant to section 81 of P.L.1977, c. 110 (C. 5:12-81) have been issued to the applicant with respect to sections 82, 84(e), 85(a) and 85(b) of P.L.1977, c. 110 (C. 5:12-82, 84(e), 85(a) and (b)) if the applicant is a corporation, and section 85(e) of P.L.1977, c. 110 (C. 5:12-85(e)) if the applicant is other than a corporation ~~of P.L.1977 c. 110 (C. 5:12-82, 84(e), 85(a) and, (b))~~;

c. That the proposed casino hotel facility is an approved hotel in accordance with the requirements of section 83 of P.L.1977, c. 110 (C. 5:12-83);

d. That a voting trust agreement as provided in this article has been instituted in accordance with N.J.S. 14A:5-20 if the applicant is a corporation, or that a trust agreement as provided in this article has been instituted if the applicant is other than a corporation, and a statement of compliance pursuant to section 81 of P.L.1977, c. 110 (C. 5:12-81) has been issued to the applicant with regard thereto;

e. That the applicant has deposited with the commission a fully executed copy of the voting trust agreement~~, that~~ or the trust agreement that if the applicant is a corporation, all outstanding shares have been surrendered to the applicant for cancellation, and ~~that~~ duplicate legended shares have been reissued which are specifically made subject to the voting trust agreement in accordance with N.J.S. 14A:7-12 and N.J.S. 12A:8-101 et seq.; and that if the applicant is other than a corporation, all interests in such applicant have

Last additions in text indicated by underline; last deletions by ~~strikeouts~~

Source: New Jersey Statutes Annotated, St. Paul, Minn.: West Publishing Co.

been assigned by the holder or holders thereof to the trustee or trustees pursuant to the provisions of the trust agreement;

f. That if the applicant is a corporation, all the shares of the corporate entity shall be subject to the voting trust agreement, and if the applicant is other than a corporation, all interests in such applicant shall be subject to the trust agreement;

g. That the voting trust agreement or the trust agreement may, at the discretion of the commission, become effective at such time as any person required to be qualified under the Casino Control Act as a condition of a casino license is found to be unqualified or at such time as any sanction whatsoever is imposed upon the temporary casino permittee by the commission; provided, however, that, in considering whether to order the voting trust or the trust to be effective in the event of the imposition of a sanction in a particular case, the commission shall, among other things, consider:

(1) The risk to the public and to the integrity of gaming operations created by the conduct of the permittee;

(2) The seriousness of the conduct of the permittee, and whether the conduct was purposeful and with knowledge that it was in contravention of the provisions of the Casino Control Act as amended and supplemented or regulations promulgated hereunder;

(3) Any justification or excuse for such conduct by the permittee;

(4) The prior history of the particular permittee involved with respect to gaming activity;

(5) The corrective action taken by the permittee to prevent future misconduct of a like nature from occurring.

h. That the voting trust agreement or the trust agreement contains such conditions as the commission may deem necessary or desirable, including, but not limited to, the unencumbered ability of the trustee or trustees to vote the shares or exercise all rights incident to ownership of interests in the applicant;

i. That the term of the voting trust agreement or the trust agreement shall extend for the term of the temporary casino permit; and

j. That the temporary casino permit will best serve the interests of the public with particular reference to the policies and purposes enumerated in section 1 of this amendatory and supplementary act.
L.1978, c. 7, § 21, eff. March 17, 1978. Amended by L.1980, c. 110, § 1, eff. Sept. 16, 1980.

[1] Section 5:12-1 et seq.

Repeal

Section 5:12-95.1 is repealed by Stats.1980, c. 110, § 4, eff. January 1, 1983.

Sections 3 and 5 of L.1980, c. 110, approved Sept. 16, 1980, provide:

"3. No temporary casino permit shall be issued after July 1, 1981, except that such a permit may be issued after July 1, 1981, but not later than December 31, 1981, to an applicant who provides evidence that prior to February 21, 1980, the applicant entered into a contractual agreement for permanent or construction period financing which is specifically conditioned on the authority of the commission to grant a temporary casino permit. Any permit in effect on July 1, 1981, or, where relevant, December 31, 1981 may be renewed, subject to section 26 of P.L.1978, c. 7 (C. 5:12-95.7).

"5. Sections 1 and 2 of this act shall take effect immediately. Section 3 shall take effect immediately and shall expire January 1, 1983. Section 4 shall take effect January 1, 1983."

Appendix C

I. SUMMARY AND RECOMMENDATIONS

A. Summary

One of the major reasons for introducing casino gambling into New York State is the potential positive impact it would have on the tourist and related industries of the state. This consideration has become even more important since the introduction of casino gambling into Atlantic City, where it appears likely casinos will revive a major resort which has suffered a calamitous decline in the last decade. It is clear, however, that legalized casino gambling exposes the milieu in which it operates to some adverse effects.

The Panel, through its consultants and staff, has estimated what impact casino gambling could have on the economy of New York State. Research into the social impact of casino gambling was also done. Studies conducted for the Panel focused on several areas where the Panel believes casino gambling may be most beneficial: The Catskills, the Niagara/Buffalo Frontier and the New York City region, including the city of Long Beach on Long Island. For each, estimates were made of the likely scale of the market for casino gambling and the impact that introduction of casinos would have on the local economy. The Panel also commissioned a poll in New York State to determine attitudes toward casino gambling and to develop certain demographic information (see Appendix E)

Source: Final Report of the Casino Gambling Study Panel, New York State, August, 1979, (Chairman, Gerald W. Lynch)

For the state as a whole, consultants to the Panel estimate that potential expenditures on casino gaming (i.e., the amount won by casinos from table games and slot machines) would amount to approximately $3.0 billion, assuming state and local policy permit the casino/hotel industry to reach the potential markets. Estimates of the high and low range are $4.1 billion and $1.8 billion, respectively, assuming no major competition from neighboring states in the near future. Approximately two-thirds of that expenditure would be made in New York City,which has the largest segment of the State's tourist industry, by far. When combined with other expenditures related to casino gaming, such as hotel, restaurant and entertainment, the estimated $3.0 billion in casino win would produce net new jobs for New York State of 107,000,of which slightly more than 5,000 would be in the construction trades.

Since these estimates may be important in the discussion of casino gambling, it is appropriate to explain them. They are based on the best data available, but data which are by no means perfect.

The three critical sources of data used by the consultants in making these estimates were 1) the Panel's own survey on gaming by New York State residents, 2) data collected by the National Gambling Commission on resident gaming in Nevada and 3) a continuing survey on gaming in Las Vegas, particularly the data on Los Angeles resident gaming in the Nevada city. From these data it was estimated that New Yorkers might spend as much as 1.2 percent of their income on casino gaming if such gambling were available locally. It was estimated those living within a 2½ hour drive of casino/hotels,such as the Catskills and Atlantic City for residents of New York,would spend .4 percent of their income on casino gambling.

In reaching these conclusions, judgements had to be made about the relationship between the inclination to gamble of New Yorkers and residents of California and Nevada.

While the New York City region is likely to receive the bulk of gaming expenditures if all three areas have casino gambling, the relative economic impact would be greater on the local economies of the Catskills and the Niagara Frontier. Middle range estimates of employment impact indicate an approximate 44 percent increase in employment in the service sector in the Catskills. In the Niagara/Buffalo area casino gambling could add 17 percent to the service sector employment. Even in Manhattan, casino/hotels may increase the number of service sector jobs by as much as 9 percent.

It should be noted that these calculations may be overstated to the extent that some gaming expenditures by residents and visitors are expenditures that might be made on other recreational activities. Of particular concern to the Panel is the potential impact casino gambling may have on the New York State racing industry. The racing industry, including the Off-Track Betting Corporation (OTB), is a significant source of employment and government revenues in this state, While it is difficult to determine from existing data what effect casino gambling would have on racing, it may be significant.

Should casino gambling be legalized, the legislature and other responsible officials should closely monitor the situation and be prepared to take action to insure the stability and growth potential of the racing industry. The Panel does not believe it would be productive simply to rearrange dollars spent within the recreation industry.

While the Panel agreed that government revenue anticipated from casino gambling should not be the major objective of legalization, direct taxes on casinos in the state could yield significant revenues. A review of the profitability of Nevada and New Jersey casinos suggests that New York State could successfully impose a far higher tax on the winnings of casinos than is done in either of those two states. Where Nevada imposes a tax of only 6.5 percent and New Jersey one of 8 percent on the casino's earnings, the Panel believes for the first five years a tax rate of 20 percent of casino win should be established. In addition, an annual fee of $1,000 per slot machine should be established. Such a fee would protect New York State against loss of revenue such as occurred in Atlantic City where no such fees were imposed and the first casino made extraordinary profits with a relatively small return to New Jersey coffers.

After the first five years, the tax rate should be lowered to 15 percent, reflecting the increased competitiveness and potentially lower profitability of the industry. Changing economic conditions, as well as federal and state tax policy, will require periodic assessment. The Panel does not believe that such a tax rate will discourage private investment in a legalized New York casino/hotel industry.

A tax of 15 percent on the middle range estimate of $3.0 billion in casino win would generate $450 million in direct taxes. This amounts to an increase of more than 3 percent in state tax revenues. Clearly, less tax revenue will be produced until the industry reaches the potential market.

Other tax revenues are also expected to increase. Estimates prepared for the Panel indicate that $45 million in corporate income taxes could be generated, while additional employment will yield about $55 million in income taxes and $60 million in sales taxes. It is likely that counties and municipalities will be direct beneficiaries of a substantial portion of these revenues under a formula mandated by the legislature as is the case with OTB.

Local governments would also be expected to benefit financially from increased property tax receipts, from new private facilities and a general increase in property tax receipts, resulting from an overall rise in property values.

Considerable concern has been expressed that legalized casino gambling would result in increased organized and individual crime as well as other adverse social effects. The Panel is very aware of the widespread public perception that casino gambling and organized crime are invariably intertwined. The Panel recognize that there is a historical basis for this belief since organized crime did infiltrate and control some casinos in the early days of Las Vegas. We have investigated the development of the casinos in Nevada since the 1950's and have concluded that casinos have substantially moved toward a professional, regulated industry, largely devoid of an all-pervasive influence by organized crime. The movement into the industry of large, publicly-held companies, under the supervision of the Security and Exchange Commission, has brought about a substantial improvement in the integrity of the casino business. The Panel has interviewed many sophisticated law enforcement officers concerned with organized crime. There seems to be a gap between the public perception and the perception of enforcement professionals in the field. Many law enforcement experts believe that organized crime's influence in the casino industry is controllable and can be minimized or eliminated by vigorous enforcement. Even with such vigilance, there can be no complete assurance that all such activity can be prevented. Experience in Nevada and New Jersey suggests that prostitution and street crimes, such as robbery, will increase as a result of casino gambling. Larceny, loan sharking and corruption of public officials are other crimes which must be constantly monitored by law enforcement agencies,which will require additional resources for this purpose.

While these effects and the cost of controlling them are generally not subject to empirical analysis, they must be acknowledged as potential "costs" of the legalization of casino gambling, and it must be clearly recognized that they may impose a significant burden upon local enforcement agencies and the population in general.

B. Recommendations

Should casino gambling be legalized in New York State, the Panel has concluded that the basic public policy purposes which it should serve are:

- economic competitiveness and tourism
- economic development

In addition, the Panel believes that reasonable revenue for government should be derived. Numerous individuals and organizations also supported these purposes at public hearings held by the Panel throughout the state. To serve these purposes the Panel recommends:

1. The following areas should be afforded the opportunity of a local referendum on casino gambling:

the Catskills, including the counties
of Sullivan, Ulster and Greene

the Niagara Frontier (the cities of
Niagara Falls and Buffalo, specifically)

the city of Long Beach

the City of New York, including Manhattan,
the Rockaways and Coney Island

Except in the Catskills, new construction of casino/hotels should be required. In the Catskills a minimum investment of $10 million should be required for rehabilitation of an existing facility. In urban centers, casino/hotels should be located in underdeveloped areas in a way that minimizes the displacement of the resident population. Except in the Catskills, casino/hotels should be "clustered" to maximize the economic impact and facilitate local law enforcement efforts associated with the casino industry.

2. Casino development in any designated area must first receive approval of the local legislative body and then, through a mandated referendum, the approval of the people of the city, town or village in which it would be located. Should the question be defeated, it should not be re-submitted until after the second general election. Repeal of initial approval should require action by the local legislative body, followed by a referendum. However, repeal should not be permitted until the fourth general election after initial approval.

3. Casino/hotels should be privately owned and operated and subject to strict state licensing, regulation and enforcement to insure the highest level of integrity in the casino industry.

4. A Casino Gaming Control Commission should be established through enabling legislation in the Executive Department. Its duties should include all matters relating to licensure, investigation and regulation of the industry. The Commission should consist of five members appointed by the Governor with the advice and consent of the Senate. The Chairman, to be designated by the Governor, should be the chief executive officer of the Commission and should serve full-time with remuneration. The other four members should be part-time. All costs of the Commission should be borne by the casino industry.

5. A special Office of Casino Gaming Enforcement should be established in the Department of Law and should have the responsibility for investigation and prosecution of criminal matters relating to the industry. Its director should be appointed by the Governor with the advice and consent of the Senate and should be a Deputy Attorney General.

6. A state tax on casino/hotel win of 20 percent should be imposed for the first five years, dropping to 15 percent beginning in the sixth year. A rate of 20 percent in the first five years will insure that monopoly profits will not be earned. Over the long run, a rate of 15 percent will generate reasonable revenues for government while allowing sufficient profitability to stimulate investment. The casino win tax should, of course, be periodically reviewed within the context of the overall federal and state tax structure.

The Panel also recommends that an annual fee of $1,000 be imposed for each slot machine.

7. Local governments should share in the revenues generated by the state casino "win" tax in a manner to be established by the legislature.

8. To insure maximum employment, while remaining aware of the need to protect the character and environment of theareas where gambling is legalized, a minimum investment of $10 million should be required and a minimum standard of 250 rooms should be established for a hotel/casino The Panel also recommends that the ratio. of casino space to hotel space be no greater than 1 to 10.

The exception to the minimum room standard should be Manhattan, where the Panel recommends a minimum hotel/casino size of 650 rooms. A minimum room size of 354 square feet should be established for all hotel/casinos. These standards should provide sufficient flexibility to private investors and planning officials to insure that the economic objectives could be met. The Panel recommends against the establishment of free-standing casinos (i.e., casinos not physically located within a hotel.)

9. In order to prevent the proliferation of casinos in the state, no more than 40 casino/hotels should be authorized in the first ten years, starting from the effective date of the implementing legislation. This limit should be adopted in the enabling legislation, as should a specific provision limiting the square footage of casino space in Manhattan at any one time to no more than one-third of the total authorized, statewide casino square footage. The latter reflects the Panel's view that the economic benefits of casino gambling should be equitably distributed throughout the state.

10. Casinos in heavily populated areas of the state should not be permitted to operate in the daytime, and dress codes, table minima and other mechanisms should be adopted to discourage impulse gambling by the local population. Casino operation in all areas other than the Catskills should be restricted from 8:00pm to 4:00am. Daytime operation in the Catskills, beginning no earlier than 10:00 am, should be permitted by enabling legislation and left to the discretion of the Commission.

11. The Panel strongly recommends a prohibition against political contributions by casino/hotels, their owners and officers and all employees. While this does not meet the entire problem of potential undue political influence, the Panel believes such a prohibition is very desireable.

12. In order not directly to stimulate casino gambling by New York State residents, the Panel recommends that advertising be restricted with regard to the casinos. Advertising of the adjoining hotel, its facilities and entertainment should be permitted. The Panel believes that the encouragement of casino gambling by advertising should be limited. Casinos, if authorized, should not compete in New York State in an unrestricted manner in the media with other leisure activities and other forms of legalized gambling. The Panel recommends that the Casino Gaming Control Commission develop guidelines for the limitation of advertising for casinos.

13. Junkets should be specifically precluded in the enabling legislation.

14. The Casino Gaming Control Commission should not be empowered to issue a temporary operating license for a casino/hotel. Such a power should be specifically precluded in the enabling legislation.

15. The Casino Gaming Control Commission should be empowered to issue temporary licenses only to employees, other than management, performing specific hotel functions (i.e., maids, bellhops, maintenance personnel) under standards to be determined by the Commission.

16. All licenses should be granted for a period of one year. The Commission should, however, be granted authority to increase the license term for hotel employees (other than management).

17. No person employed by the Commission should be permitted to be employed by a casino/hotel or related industry for four years after leaving the employ of the Commission.

18. All services ancillary to the casino/hotel should be licensed. The owners, management and supervisory employees of such related industries must qualify for a license based on the same standards set for casino employees.

19. The Commission should be empowered to establish a conservatorship for a casino/hotel if and when the Commission deems such action necessary. Such a provision is an essential part of the enforcement and regulatory process and serves to protect the economic interests of the state and of those employed in the casino gambling industry.

Appendix D

Report of Attorney General Robert Abrams In Opposition to Legalized Casino Gambling in New York State

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This report, in preparation for six months, sets forth my reasons for urging postponement of a referendum on legalized casino gambling in New York State for an indefinite period.

Prior to becoming Attorney General in January 1979 I was a supporter of legalized casino gambling for the State. However, as the debate intensified during the past two years, I must admit that my enthusiasm began to diminish with closer scrutiny of the issue from the unique perspective of my new office. As Attorney General, I have carefully evaluated numerous reports and studies on the opportunities and problems presented by casino gambling, including the Final Report of Governor Carey's Casino Gambling Panel (1979) and the Report on Casino Gambling for Mayor Edward I. Koch (1979), prepared by John F. Keenan. My staff and I have monitored Atlantic City, New Jersey's experience with casino gambling and examined its implications for New York based on discussions with the former Attorney General of New Jersey, John J. Degnan, and other New Jersey state and local law enforcement officials. In September 1979 I visited the Atlantic City casinos and enforcement operations with Attorneys General from Northeastern states. I have also explored the crime issues at length with the Attorney General of Nevada, Richard H. Bryan, and law enforcement officials from many other areas. Finally, my staff and I have had numerous discussions with representatives of groups both supporting and opposing casino gambling for New York, and with members of the public. As a result, I became increasingly well acquainted with the numerous facets of this complicated issue.

Revelations in 1980 of a myriad of problems associated with New Jersey's casino gambling industry -- in particular, the soaring rate of casino-related crime in Atlantic City and recurring allegations of organized crime infiltration and influence peddling at federal, state and local levels -- were, for me, the final straw. I am now persuaded that casino gambling in New York State would not be in the public interest. Specifically, I believe that the financial and economic benefits to be derived from passage of any of the eight resolutions to legalize casino gambling now before the Legislature are outweighed by the added crime problems which gambling casinos would cause for the State and the corrosive and disruptive effects that legalized casino gambling is likely to have on communities where casinos are located and on the people and institutions of our State.

The factors that changed my mind about casino gambling are the following:

1. The evidence from Nevada and Atlantic City conclusively indicates that legalized casino gambling in New York would be accompanied by a debilitating upsurge of crime in areas where casinos are located.

New York communities are already besieged by crime problems of unprecedented dimensions. This burden is likely to become intolerable for those counties and communities that embrace gambling casinos.

Law enforcement officials interviewed by John F. Keenan for his Report on Casino Gambling for Mayor Edward I. Koch, without exception, predicted "a tremendous increase in street crime and prostitution in areas near Casinos" (Keenan Report, page 16). Their prognosis is supported by irrefutable evidence of enormous crime problems in the two areas within the United States where casino gambling has been legalized -- Nevada and Atlantic City, New Jersey.

Nevada, which has had 50 years to learn to live with casino gambling,[1] leads the United States in crime. In Las Vegas alone, there were 34,257 serious crimes last year, including 92 murders, giving that city the nation's highest per capita crime rate. According to the March 9, 1981 issue of U.S. News and World Report:

> "There are 10,000 prostitutes active in the City - a number equal, according to the Census Bureau figures to 1 out of every 9 women in the area between the ages of 15 and 39." (p. 66)

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[1] The gaming industry in Nevada was legalized by statute in 1931.

In Atlantic City there has been a huge increase in crime since gambling casinos were introduced three years ago -- an experience characterized by the Atlantic City Press as a "staggering crime wave in the wake of casino gambling".[1] The first casino (Resorts International) opened in Atlantic City in May 1978. Two others (Caesars; Bally's Park Place) opened in 1979, and six casinos were operating under regular licenses or temporary permits by the end of 1980.[2] During the same three year period, official Uniform Crime Reports of the New Jersey State Police revealed the following crime index totals for Atlantic City[3]:

1977	1978	1979	1980
4,391	5,738	7,010	11,899

Compared to the reported crime index for 1977, when Atlantic City had no casinos, these statistics reveal a dramatic crime increase of 171% over the past three years when compared with a state-wide crime increase of 26%. During the two year period 1979-1980, when the number of casinos went from one to six, reported crimes increased 107%. In 1980 alone, crime rose 70% over the preceding year, 1979, reflecting an additional 5,000 reported crimes. The increase in 1980 is in contrast with a 10% rise in the crime index last year for the entire state of New Jersey.

Comparison of crime index totals for Atlantic County as a whole with the index for Atlantic City further illustrates the trend within the city proper since the advent of gambling casinos. From 1976 to 1977, before casino gambling, reported crimes for the County increased 6%, while Atlantic City's crime index actually decreased 6%. From 1977 through 1980, however, while Atlantic City's reported crimes jumped 171%, the County's index (excluding Atlantic City) rose only 26%. This does not mean, however, that soaring crime has been confined to Atlantic City. Communities surrounding the city, such as Ocean City and Egg Harbor, have also experienced a significant rise in crime attributed by local officials to the casinos in Atlantic City.[1]

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[1] Atlantic City Press, December 22, 1980.

[2] There will be three new casinos in 1981: a Playboy casino/hotel opened in May; the Ramada Inn's Tropicana and the Del E. Webb Corp's Claridge are scheduled to open in June and by mid-year, respectively.

[3] The crime index totals reflected in the reports include the following offenses: murder, forcible rape, robbery, aggravated assault, burglary, larceny theft and motor vehicle theft.

The escalating crime trend in Atlantic City since the introduction of casino gambling applies both to violent and non-violent crimes. From 1977 to 1980, violent crimes, including murder, rape, robbery and aggravated assault, increased 130%; for non-violent crimes the increase was 176%. An analysis of the overall crime index by key categories demonstrates the nature and magnitude of criminal activity that has accompanied casino gambling since 1978: aggravated assaults (up 111%); robbery (up 151%); stolen automobiles (up 163%); larceny thefts (up 297% -- an increase in 1980 of 108% over the preceding year). A further, revealing breakdown is provided by unverified crime statistics of Atlantic City's Police Department: pickpockets (up from 15 to 544 incidents since 1977 and an increase of 135% during the past year); pursesnatching (up 158% since 1977 and 85% during the past year); shoplifting (up 307% since 1977); larceny from motor vehicles (up 374% since 1977 and 108% during 1980); and larceny from buildings (up 279% since 1979).

As disturbing as these crime statistics from Atlantic City must be to anyone considering the implications of legalized casino gambling for New York communities, the cold numbers do not reflect the distressing impact that Atlantic City's casino-nurtured crime has had on that city for residents and visitors alike. Several examples and expressions of the problem drawn from published accounts and confidential interviews and reports are revealing:

* During November 1980, an average of three persons per day were mugged on Atlantic City streets, according to local Police Department statistics.[2] The seriousness of the problem was vividly portrayed in the December 22, 1980 edition of the Atlantic City Press:

> "Street thugs--drawn to the people and the money--saturate the avenues leading to the casinos and the public parking areas."
>
> "Visitors unfamiliar with the city wander a block or two off the beaten path and are attacked."

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[1] Ocean City Sentinel Ledger, January 22, 1981.

[2] Atlantic City Press, December 22, 1980.

The November 12, 1980 edition of the Atlantic City Press reported:

> "People are getting mugged almost as soon as they get off the bus at the Atlantic City Bus Terminal.
>
> "Many of those who get safely through the terminal become victims of crime on their way to the casinos."

* Visitors to Atlantic City are not the only ones threatened by the upsurge in crime. Elderly residents have become prime targets for criminal attacks on the streets and in their homes. They live in fear of crime, especially burglaries and personal assaults.[1] In the South Inlet section of the City, for example, elderly residents have been attacked traveling to and from their temple of worship on Friday evenings -- even inside their synagogue. Because of such street crimes directed at the elderly, the City's Commissioner of Public Safety recently called for the use of citizen patrols.[2]

* "Devastating" is how one local police official characterizes the social impact on Atlantic City of the deluge of muggings, pursesnatchings, car thefts, crimes of trickery, dope peddling, and prostitution stimulated by the introduction of casinos.[3] Of those arrested for crimes against the person since 1978, 95% have been out-of-towners or visitors to Atlantic City casinos, and of 95 persons arrested for car thefts since 1978, only five have been local county residents.[3] Narcotics deals are routinely being made on the busiest of Atlantic City street corners in broad daylight, and residents report that anything can be bought along certain avenues near the Boardwalk, "from heroin to cocaine, methamphetamine to stolen cars and television sets".[4] Atlantic City's Police Department reports that the department is swamped weekly by room theft reports from the casino-hotels; that cars are being stolen at an alarming rate from casino parking lots; and that daytime burglaries of homes and apartment buildings in areas surrounding the casinos are becoming increasingly frequent.[5]

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[1] Atlantic City Press, February 5, 1981, quoting from Report of Stockton State College (1981) on problems of Atlantic City's elderly population.

[2] Newark Star Ledger, January 25, 1981.

[3] Report of Massachusetts Legislative Research Bureau, February 19, 1981, p. 3.

[4] The Philadelphia Inquirer, January 25, 1981.

[5] Atlantic City Press, November 12, 1980.

* One high-level, state law enforcement official in New Jersey reports that prostitution and loan sharking are "rampant" in and around the casinos. There are more security people within each casino than are employed by the entire Atlantic City Police Department, which has 245 officers.[1]

* Arson has ravaged several residential districts of the City containing newly valuable land coveted by speculators for casino development. Fire officials have had to contend with as many as 40 to 50 suspicious fires each month. In 1979, 295 fires of suspicious origin were responsible for more than $2 million in damages. In 1980, 426 suspicious fires were reported. Since 1978, the total number of fire alarms has increased by 1,153, or 44.7%, and a further 10% rise is projected for 1981. The South Inlet section, fronting on the Boardwalk, and occupied by the poor and elderly who live in older homes, has been a prime target for arsonists as well as an area coveted by speculators. In 1980, 640 fires were reported there; some buildings have been burned over and over again; and whole blocks that once were solid neighborhoods now are dotted by a house here and there. Only in recent months has the incidence of Inlet fires declined because, according to one local fire official, "there's simply nothing left to burn".[2] However, fire and police officials are now becoming apprehensive of an increase in suspicious fires in the Chelsea section, and the local Police Department has beefed up its arson strike force.

* Faced with a 2000% increase in demand for its services since legalization of casino gambling, Atlantic City's Police Department has been unable to cope with the rising crime in the wake of casino gambling. Charges of poor police administration and departmental turmoil have been leveled by state officials and the press, and it is reported that the State Police are reluctant to share with the department sensitive intelligence information regarding illegal gambling and drugs because of purported relationships between certain local police officials and Atlantic City numbers operators.[3] According to one high level, state law enforcement official, "the casino industry controls the local Police Department." In addition, many of the department's best and most experienced police officers have left the department to take more lucrative security jobs with the casinos. Prior to leaving office, former Attorney General

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[1] A major investigation of prostitution within three casinos is currently being conducted by state and county law enforcement agencies. Philadelphia Bulletin, March 12, 1981.

[2] The Philadelphia Bulletin, January 6, 1981.

[3] Atlantic City Press, December 22, 1980.

Degnan publicly referred to the local police department as "sadly demoralized," and threatened to order State Police intervention if conditions did not improve.[1]

* The costs of local law enforcement in Atlantic City are mushrooming. In 1977, the budget for public safety was $5.7 million. For 1981, $14.2 million has been requested -- a $5.5 million increase over 1980. If approved by referendum, this budget will add 130 officers to the Police Department, an increase of 46%, but could also push the city's tax rate from $4.07 to above $6 per $100 of assessed valuation. In addition, the city recently had to shelve plans to build a new 200 prisoner facility to replace its antiquated 100 prisoner facility because a 250 prisoner facility is now needed. Costs of policing and regulating the casinos are also skyrocketing at the state level. The combined budgets of the Casino Control Commission and the Division of Gaming Enforcement within the Attorney General's office, paid for by fees levied on the casinos, exceed $20 million for the fiscal year ending June 30, 1981. The Division of Gaming Enforcement has requested a $20.8 million budget for the next fiscal year, up 43% from the current year. The requested increase is for new employees (the Division now has 450) to monitor activities of three new casinos under construction. The Casino Control Commission has requested $13.4 million for next year, almost double its current budget.

G. Michael Brown, Director of New Jersey's Division of Gaming Enforcement within the Attorney General's office, and other law enforcement officials in New Jersey concede that they have had a very difficult time trying to monitor and control crime related to casino gambling in a single peninsula three and one-half miles long and one-half mile wide with only four road access points. They believe their mission would be almost impossible if casinos were authorized for a number of areas throughout New Jersey. Specifically, according to Mr. Brown, "the logistical problems of statewide regulation would be enormous."

The actual Atlantic City and Nevada experiences have conclusively demonstrated to me that legalized casino gambling, by its very nature, creates an environment in which crimes of all types will flourish. This means, in effect, that legalization of casino gambling in New York will increase significantly the level of crime in those areas of the State where casinos would be located. With law enforcement agencies and other elements of the criminal justice system barely able to hold their own against existing criminality, it is difficult for me to conceive how they can be expected to handle the tremendous increase in street and petty crime that will accompany casino gambling.

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[1] Atlantic City Press, December 22, 1980.

I am especially concerned about the consequences of legalized casino gambling for New York City at this juncture of its long-term revitalization efforts. I do not believe New York City can risk exposure to the added crime burdens that gambling casinos will bring. Its health and its positive image, both adversely affected by the fiscal calamities of the early 1970s, have been restored by a herculean effort of government, business, local communities and citizens. A new, avoidable wave of criminal activity could destroy the positive results of that work. I believe it is too high a price to pay for the economic and financial benefits of casino gambling.

2. Gambling casinos are a magnet for organized crime and New York lacks the sophisticated law enforcement system required to keep organized crime out of the casino gambling industry.

There has existed and continues to exist an incestuous relationship between the casino gambling industry and organized crime. It is an historic and deep-seated union, nurtured by the vast amounts of money involved in casino gambling and by the extraordinary opportunities which casinos, and the environment in which they flourish, offer for organized crime groups to engage in a wide range of illegal and lucrative activities.

a. Organized Crime's Attraction to Casinos

The financial inducements of casino gambling for organized crime are immense. The gross "win", i.e., gambler loss, of the Atlantic City casinos in 1980 was $623.7 million and will exceed one billion dollars in 1981.[1] It is a highly liquid business where in excess of $2.2 million, mostly cash, can move on an average day from gamblers to casino coffers. For the first two months of 1981 the total "drop and handle" (i.e., money bet) at the six Atlantic City casinos was $854 million.

For organized crime groups, traditionally versed in the mechanics of the industry, infiltration of the casinos -- through ownership, management or even key gaming room positions -- can mean huge illegal profits from skimming operations.[2] New Jersey regulators question the possibility of large amounts of cash being removed from casino counting rooms before it is recorded for tax purposes, but the Internal Revenue Service, in a report of an IRS Subcommittee on Casino Unreported Income, dated July 31, 1980, admits that government authorities in Nevada and the United Kingdom have not been able to control various kinds of skimming by owners and upper management of casinos after 20 years of trying and that the tax loss to the federal government on unreported gambling income is staggering.[1]

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[1] For the first two months of 1981, the off-season, casino "win" was $131.3 million.

[2] According to the February 23, 1981 edition of the Las Vegas Sun, millions of dollars are being skimmed each year from Las Vegas casinos by crime syndicates from New York, Chicago and six other cities, and illegal casino skimming is more lucrative than "street" rackets such as drugs trafficking and loansharking.

The IRS report identified the following suspected skim areas:

> "1. Kickbacks to owners, including hidden owners.
> 2. False bills: Fictitious costs charged to the games.
> 3. Fictitious gaming loss (Credit Skim and Cash Skims).
> 4. Fictitious cash advances.
> 5. Manipulation of receivable records."

It specifically found that:

> "False bills, fictitious gaming losses and fictitious cash advances have long been used as skimming methods in Nevada casinos. It is interesting to note that these areas also represent the major problems as skimming devices in casinos of the United Kingdom according to information furnished the Revenue Service Representative in London."

In commenting on both Nevada and New Jersey control systems designed to prevent cheating, the report concluded:

> "In the opinion of this study group, these systems of internal control are not effective to prevent skimming by owners and upper management or any persons with authority to initiate and change existing rules or procedures."

* * *

> "This study group is of the opinion that casino internal control systems now employed will help ensure that those operations which are honest will remain honest. The remaining operations will continue to divert funds regardless of how elaborate the written internal control system submitted to the State Board may have been."

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[1] Final Report of the Internal Revenue Service Unique Compliance Committee, Subcommittee on Casino Unreported Income (July 31, 1980).

New Jersey law enforcement officials agree with the IRS that skims can occur in slot machine operations,[1] and they have found that the casinos are highly vulnerable to costly credit scams engineered by insiders and their outside conspirators. For example, a credit scam involving middle-level employees of Bally's Casino and an outside crime group defrauded the casino of $4 million within a two week period during the summer of 1980.[2]

Gambling casinos provide an excellent means for organized crime groups to launder funds from their other illegal activities. For example, as reported in the Keenan Report, page 18, the federal government is currently investigating one crime family which allegedly laundered millions of dollars derived from illegal drugs through Caesar's Palace in Las Vegas.

The vast legitimate profits reaped by casinos -- exceeding $2 million per month in some cases -- present another magnet to hidden organized crime interests.[3] Tremendous amounts of funds are at the disposal of casino owners and managers.[4] Opportunities for unscrupulous operators to funnel casino gambling profits into front organizations for illegal organized crime activities or into legitimate businesses controlled by organized crime are numerous, according to New Jersey law enforcement authorities. Historically, hidden ownership and illegally held capital have been the most serious organized crime problems associated with casinos in Nevada. (Keenan Report, page 17)[5] Other inducements to organized crime are lucrative ancillary services, both legal and illegal: liquor, food, linens, loansharking, prostitution, fencing stolen property and drug trafficking.[1]

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[1] Two Las Vegas casinos were recently the subjects of slot machine department skims amounting to approximately $7 million over a one and one-half year period. (IRS Report, page 19)

[2] Also, On May 11, 1981, Resorts International and six of its casino officials were charged by the Attorney General with violations of New Jersey's casino credit regulations for their participation in check-kiting schemes that defrauded Resorts of $4.1 million.

[3] The pretax profit of the Golden Nugget in January 1981, its first full month in operation, was $2 million.

[4] Resorts International, Inc., for example, has in excess of $100 million in unspent profits deposited in New Jersey banks.

[5] As admitted by the Chairman of the Nevada Gaming Control Commission: "organized crime is still around." (U.S. News and World Report, March 9, 1981, p. 67.) In fact, despite official assurances to the contrary, it is widely believed within law enforcement circles that large segments of the casino business in Nevada were infiltrated by organized crime figures and their associates.

The two major reports issued in 1979 that gave qualified endorsement to casino gambling for New York State acknowledged that organized crime activities resulting from legalized casino gambling will cause law enforcement problems of major dimensions for the State and its local municipalities.[2] Law enforcement experts are unanimous in their agreement on this issue.

b. New Jersey's Experience

Although organized crime activities are extremely difficult to detect, and impossible to quantify, the prognosis of the Lynch and Keenan Reports appears to have been confirmed by New Jersey's experience.

In remarks before a committee of the New Jersey Legislature on March 3, 1980, New Jersey's former Attorney General Degnan vividly portrayed the involvement of organized crime in Atlantic City. While declining to reveal specific evidence of infiltration of Atlantic City's casinos by organized crime, Mr. Degnan said:

> "But is organized crime present in Atlantic City? Yes. Is it there in greater force than it was before casinos were passed? Yes. Are they trying to buy liquor licenses? Yes. Are they trying to get into ancillary industries? Yes. Is there an increase in prostitution? Yes." (New York Times, March 4, 1980)

Mr. Degnan added that loan sharking and bookmaking had increased since the first casino opened in Atlantic City and that organized crime was responsible. Subsequently, in remarks before the Eastern States Attorneys General Conference in Newport, Rhode Island, on October 7, 1980, reported in the October 8, 1980 edition of the Providence Journal Bulletin,

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[1] A Chicago crime syndicate purportedly has controlled street rackets in Las Vegas for several years. Las Vegas Sun, February 23, 1981.

[2] According to the Final Report of the Casino Gambling Study (Lynch Report), established by Governor Carey in February 1979: ". . . it must be clearly recognized that they (organized crime activities) may impose a significant burden upon the local enforcement agencies and the population in general" (p. 11). John J. Keenan, in his Report on Casino Gambling, prepared for Mayor Koch in 1979, was more blunt: "Casino gambling operations consequently present permanent attractions to organized crime. For this reason, if New York chooses to allow Casino Gambling, it should recognize that by doing so it is creating a new area for criminal and organized crime to enter." (pp. 16-17).

Mr. Degnan further revealed that organized crime connections had been traced in real estate transactions in Atlantic City and in some infiltration of unions active in the casinos.

More recently, on March 17, 1981, G. Michael Brown, Director of the Division of Gaming Enforcement, commented publicly on an intense fight between several organized crime groups for dominance of casino-related rackets in Atlantic City (see pages 15-16):[1]

> "Casinos are traditional areas of attempted organized-crime infiltration, of possible illegal diversion of funds and avoidance of taxes, of prostitution, and of loan sharking. . ."
>
> "State police intelligence shows that New Jersey, Philadelphia and New York organized crime families are competing for inroads in the Atlantic City area . . . the mob considers Atlantic City worth fighting over . . . it is a struggle over rights to casino service industry businesses."

Affiliations of Casinos Licensed: Three Atlantic City casinos have been issued regular licenses by New Jersey's Casino Control Commission,[2] and the Attorney General's office opposed all three applications based on its findings of business transactions with reputed organized crime figures. In the case of Resorts International, Inc., Atlantic City's first casino, the Attorney General's recommendation was ignored -- a decision which Mr. Degnan described as a "tilt toward the concept of economic development of Atlantic City . . . rather than toward crime control".[3] In the second instance, involving Caesar's World Inc., a license was awarded by the Commission on condition that the casino's two top officers sever their ties with the casino and divest their holdings. The Commission found both the chairman and the president unfit to associate with the casino because of their connections and dealings over a number of years with alleged associates of underworld financier Meyer Lansky.

Proceedings involving the third casino licensed, Bally Manufacturing Corp. and its subsidiary, Bally's Park

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[1] Speech before Atlantic City conference of casino industry representatives on March 17, 1981 sponsored by Public Gaming Research Institute of Maryland.

[2] The three other casinos are operating under one year permits.

[3] New York Times, February 15, 1980.

Place, Inc., operator of the Park Place Casino, are illuminating. On December 29, 1980, the Commission gave its final approval to a casino license for Bally but ruled that one William T. O'Donnell, the founder, former chairman and president of Bally, was not qualified to hold a license and directed him to sell his holdings. Earlier, in December 1979, Mr. O'Donnell had been required by the Commission to relinquish his positions with the company as a condition of the casino being granted a temporary permit. The Commission based its license decision on Mr. O'Donnell's history of associations with reputed organized crime figures and his alleged participation in a scheme to bribe Kentucky legislators in 1968. The Attorney General's office had strenuously urged rejection of Bally's license request based on its findings that both the company and Mr. O'Donnell were unsuitable because of their associations with criminals. Six days of hearings before the Commission in November 1980 revealed the following: In raising money to buy Bally's predecessor company in 1963, Mr. O'Donnell had enlisted as a partner an associate of two high level, New Jersey organized crime figures in a New Jersey vending machine company and other businesses. One of the reputed underworld figures, a member of the Genovese crime group, became, in fact, a hidden partner in the syndicate organized by Mr. O'Donnell to purchase Bally's predecessor. Although Mr. O'Donnell knew of these relationships long before buying Bally, he claimed in testimony that he did not know of the organized crime figure's hidden interest in the syndicate until a year after the purchase. Another member of the syndicate organized by Mr. O'Donnell to buy Bally's predecessor was associated with the organized crime figure in a Brooklyn company that made billard tables and, yet another of Mr. O'Donnell's original partners, the operator of a Cleveland vending machine business, was ordered by the Nevada Gaming Commission in 1976 to sever his ties with Bally after having been seen golfing with the underworld figure. Mr. O'Donnell conceded to the Commission that "some past associations have been dubious" but characterized them as "mistakes in judgment." However, the Attorney General's office argued that the company's associations with criminals were so "flagrant" that Bally should not even be allowed to sell slot machines in New Jersey. The Attorney General's office further found flagrant disregard by Bally of gaming regulations of casino control bodies designed to keep out criminal elements. Specifically, when licensed by the Nevada Gaming Commission in 1975, Bally was ordered to sever all ties with the aforementioned New Jersey vending machine distributor. However, Bally substituted a company which was merely a front for the former distributor. In its 1975 order, the Nevada Commission also ordered Bally to sever all ties with its Louisiana distributor who had been convicted by the Federal government in 1974 on racketeering charges of promoting the sale of Bally pinball machines for illegal gambling. However, Bally allowed the distributor to pick his successor, a partnership which included his five children, and to continue to place orders with Bally.

In addition to the experience of casinos licensed to do business in New Jersey, there is also evidence of unsuccessful efforts by organized crime groups to buy into casino-hotels in Atlantic City. One incident involved an attempt by a reputed member of the Gambino crime family in New Jersey to buy into the Shelburne hotel through an unsuspecting front man, but the deal aborted when the front man became suspicious of his new partners.[1]

Real Estate: New Jersey law enforcement officials report that organized crime's influence in Atlantic City is widespread in the virtually unregulated real estate industry.[2] According to state officials, one Canadian organized crime group has bought 7% - 8% of the land in the area through dummy corporations, and other crime groups are believed to be active in the land speculation that has ravaged entire residential neighborhoods of the city. As discussed above, at page 6, a wave of arson has accompanied organized crime's entry into the business of obtaining and clearing land for casino related development. Another consequence of the out-of-control land speculation has been property tax increases of 300% to 400% in casino areas, imposing intolerable burdens on lower and middle income homeowners.[3] Exorbitant rent increase imposed by unscrupulous property owners have also forced 3000 families out of rental units, and those who have remained, through lack of any alternative, have experienced 500% to 1000% rent increases since 1978.[4] For elderly persons on fixed incomes the impact of skyrocketing land prices and rents has been devastating. In excess of 2000 elderly persons have been uprooted from their homes and apartments, and many of them have been forced to leave the city.[1]

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[1] Daily News, April 2, 1981.

[2] The Christian Science Monitor, January 17, 1981.

[3] A typical situation is that of the 80 year old retired teacher whose annual property taxes jumped from $1600 before casino gambling to $4000 by the end of 1980. Another example is that of the elderly couple whose home was reassessed from $22,000 to $139,000, resulting in an increase in their annual property tax bill from $650 to $5,500.

[4] Report of Massachusetts Legislative Research Bureau, February 18, 1981, page 3.

Labor unions: An area of great concern to New Jersey's law enforcement authorities is organized crime's purported ties with local unions emerging as powerful forces within the casino industry. Their primary fear is that organized crime, through control of the unions, will try to extort a share of the huge earnings of the casinos by selling labor peace.

The New Jersey State Police report that leaders of two unions active in the casinos have close ties with members of a major crime group that controls illegal gambling, loan-sharking and other rackets in Atlantic City and Philadelphia.[2] An official of the State Police's Casino Gaming Bureau and Intelligence Bureau states:

> "We are concerned that organized crime is getting in through the back door with these unions. These are the key unions for casino workers and the construction industry, and it looks as if the mob is laying the groundwork to do their thing."[3]

According to the Atlantic County Prosecutor: "Based on what we have seen, the most likely target for monopolistic control by organized crime of a significant segment of the casino economy would be through these unions".[4]

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[1] According to the 1981 Report of Stockton State College: "Without planning and legislative safeguards designed to protect the elderly, many officials don't see many elderly living in this area in a period of four to five years. Indeed many of the elderly who resided in Atlantic City prior to passage of the casino gaming referendum have disappeared. Their numbers, and destination are yet unknown even to the service providers."

[2] Local 54 of the Hotel, Restaurant and Bartenders International Union, which represents 7600 casino workers in Atlantic City, and Local 30 of the Composition Roofers Union, which has become the dominant union among the trades involved in the construction of casinos.

[3] New York Times, December 1, 1980; See also The Christian Science Monitor, February 18, 1981.

[4] New York Times, December 1, 1980.

Withing the past several months, casino gambling regulators and law enforcement agencies have been closely monitoring an effort by the Teamsters to organize the casino dealers. They are also disturbed by a struggle among unions with underworld ties to organize the casinos' security personnel. Specifically, Casino Police and Security Officers, Local 2, a Long Island based union allegedly affiliated with a major New York crime group, the Gambino family, has gathered enough signatures to mandate elections this spring at Resorts, Bally, Brighton and the Golden Nugget, outdistancing two other security guard unions purportedly sponsored by organized crime groups in Philadelphia.[1]

The importance that organized crime groups in New York, Philadelphia and Northern New Jersey attach to infiltration of the burgeoning casino gambling industry and related Atlantic City rackets is succinctly demonstrated by the viciousness of the fight to control the security guards. New Jersey law enforcement officials believe this conflict is the cause of as many as seven gang-land murders during the past year in the Philadelphia area, including the killing of two leaders of the Philadelphia crime group that has controlled the Atlantic City rackets for generations and of the head of Local 30 of the Philadelphia Roofers Union (see above) who had been trying to organize the casino security personnel. In a speech before representatives of the casino industry on March 18, 1981, Governor Brendan T. Byrne said:

> "Six people have been killed in Philadelphia arguing over Atlantic City . . . the state has got to assume that organized crime will continue its efforts to corrupt the casino industry in the resort."

On May 11, 1981, the Division of Gaming Enforcement petitioned the Casino Control Commission to disqualify Local 54 from collecting dues or administering pension and welfare funds on behalf of licensed casino employees because of its alleged associations with organized crime figures. However, New Jersey state and local law enforcement experts believe they have limited powers to prevent organized crime's infiltration of the casinos through labor unions. Regulated by the U.S. Labor Department, it is not clear whether the labor unions are subject to the strict investigations of the state's regulatory agencies.[2] Consequently, according to New Jersey intelligence sources, "the mob has targeted the unions as the easiest point of entry into the Atlantic City casino industry."[1]

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[1] Trenton Times, March 8, 1981.

[2] The Christian Science Monitor, February 18, 1981.

c. New York's Lack of an Effective Enforcement Program Directed At Organized Crime

In assessing the advisability of casino gambling for New York State, I am particularly concerned that efforts to combat organized crime historically have not been given high priority by state and local law enforcement agencies. As a result, New York lacks the rudiments of a state-wide enforcement system able to detect and combat organized crime's infiltration of the casino gambling industry. In fact, the State does not have the basic machinery required to deal with existing, traditional organized crime activities. No better illustration of this void exists than the condition of the state-wide Organized Crime Task Force (OCTF). Created in 1970 to root out pervasive and complex organized crime conspiracies of a multi-county nature, for ten years OCTF was denied adequate resources and powers to investigate and prosecute illegal activities of organized crime[2]. Compared to law enforcement programs directed at organized crime in other states, New York's state-wide program is an embarrassment. Ten years after its creation, OCTF had a staff of less than twenty professionals. It has no intelligence gathering system. It has almost no presence in New York City, Long Island, Buffalo, or other areas which are being considered for casino gambling. Its State Police contingent has been reduced to twenty-eight officers despite suspected increased organized crime activity in many parts of the State.

At the county level, the ability of New York's District Attorneys to confront complex organized crime activities is almost nonexistent in over 50 of the State's 62 counties because of their burdensome responsibilities to investigate and prosecute other crimes. The Rackets Bureaus of eight larger counties, fairly active against organized crime in the 1950s and 1960s, have been crippled in recent years because resources have been shifted to fight street crime. The State's overall effort, including both state and county, is fragmented and uncoordinated. There is no state-wide system. The practical consequences are very poor intelligence, crucial to any serious program intended to combat organized crime infiltration of casinos, and an inability to investigate complex crimes typical of organized crime groups.

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[1] *Trenton Times*, March 8, 1980.

[2] The 1981/1982 appropriation for OCTF, just enacted by the Legislature, was $2.7 million. This represents the first significant funding increase in the Task Force's history.

In marked contrast to New York, New Jersey -- which has had trouble controlling casino gambling in one small area --has built and refined a highly professional law enforcement system to fight organized crime during the last decade. With its central focus in the Attorney General's Criminal Division, the program is an integrated network, involving state and county prosecutors with the expertise and resources to detect, investigate and prosecute organized crime activities. This criminal division has an experienced staff of 400, and the organized crime component alone employs 200 full-time State Police investigators (compared to OCTF's part-time State Police contingent of 28) The Gaming Enforcemen Division within the Attorney General's office has 118 state police personnel assigned to it, and the state police also has several special units assigned to Atlantic City. New Jersey's organized crime unit benefits from a witness protection program, access to three state-wide grand juries, which run continuously throughout the year, and an efficient intelligence gathering program. New York has none of these essential tools.

If New Jersey, with its established criminal enforcement machinery, is struggling to curtail organized crime involvement in the casino industry in Atlantic City, how can New York possibly expect to control the problem in a number of areas of the State with its primitive law enforcemen system devoted to organized crime? In my view, it will take at least five years for New York, at great cost, to build the two tier (statewide and county) system necessary for effective regulation and control of casino gambling. By then, I fear, organized crime groups would be so deeply entrenched in the casino gambling industry, and related businesses, and in communities where casinos are placed, that they will be virtually impossible to dislodge.

3. Legalized casino gambling poses a danger to the integrity and credibility of government institutions and public officials.

Gambling casinos involve the outlay of vast sums of money with the prospect of enormous profits for casino owners. The start-up costs alone for the first casino in

Atlantic City, Resorts International, were $90 million. Bally paid $300 million for its facility; Harrahs' $120 million and the Golden Nugget $106 million. The average daily take of each major casino is $500,000 and the monthly net profit can exceed $2 million. High stakes ride on the licensing, regulation and control of casinos. Pressures exerted on government officials and institutions have been relentless where casino gambling has been legalized.

After only a short experience with gambling casinos in New Jersey, former Attorney General Degnan acknowledged that "the industry has become a major one and has come to have a substantial influence on the body politic in the last three years".[1]

Revelations in the spring of 1980 of influence peddling and official corruption in New Jersey heightened the public's awareness of the extraordinary power of the casino industry to contaminate the political process and to influence government at all levels. Several officials - federal, state and local - were implicated in efforts to influence decisions relating to the issuance of casino permits in return for favors. In one Abscam incident, the Vice Chairman of New Jersey's prime regulating and licensing body, the Casino Control Commission, resigned because of disclosures by federal authorities that he had allegedly failed to report a $100,000 bribe offer to help a fake Arab company purchase land to build and operate a casino. The FBI's Abscam investigations also resulted in revelations that a U.S. Senator from New Jersey allegedly used his influence in an attempt to secure favorable action from the Casino Control Commission on an application to build a casino in Atlantic City. Allegations also surfaced about the lobbying activities of New Jersey state senators on behalf of casino gambling interests.

Reported incidents of influence peddling, such as the above, convey only a sense of how the casino gambling industry is spinning a web around government at all levels in New Jersey.[2]

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[1] New York Times, February 15, 1980.

[2] A New York Times editorial, dated June 19, 1980, referred to the relationship as "thicker than blood" and commented: "There's no telling anymore who is really regulating whom." The editorial concluded that "the casinos simply have too much money to make and spend to avoid the legal corruption of government."

In confidential interviews, New Jersey officials have expressed shock at the speed which the infant industry has become the dominant force in Atlantic City and County governments. One high-ranking state law enforcement official referred to the industry as having "its tentacles everywhere . . . into everything." The former head of New Jersey's Gaming Enforcement Division, in a speech before a convention of casino industry executives on June 17, 1980, called "official corruption" a bigger threat than organized crime in Atlantic City. He said, "I am frankly shocked New Jersey is as much for sale as it is."[1]

At the local level[2]:

* More than 50 local officials and government employees in Atlantic City own stock in casino gambling companies, or have been involved in the purchase or sale of property for casino use, or have other financial links to the casino gambling industry. These include, among others, the Police Chief, the former Deputy Police Chief, now a City Commissioner, and the City Commissioner for Public Safety who oversees the Police Department.

* Five of the nine members of Atlantic City's Planning Board have invested in, or had property or financial dealings with, the casino industry. Three of seven Zoning Board members had similar ties. Members of the two boards, responsible for key zoning decisions, have routinely been involved in land deals with the casinos and have personally benefited from casino-related land transactions approved by the boards. For example, the Planning Board chairman will participate in a $6 million profit on the rezoning by the Board of a 2.2 acre tract for casino use.

* In addition to members and staff of the Planning and Zoning Boards, other local officials in a position to regulate casino operations and enforce the laws have links to the casinos, including police officials, fire department inspectors, and staff of the law department. The New York Times, in

its series, uncovered numerous instances of possible conflicts of interest involving public officials who were in a position to influence the development of gambling casinos in which they had a personal financial interest. Some government officials have expressed concern that the pattern of involvement of public officials is so pervasive that the independence of city efforts to regulate the gambling industry has been jeopardized.[1]

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[1] New York Times, June 18, 1980.

[2] A four part series in the New York Times (June 15, 16, 17, 18, 1981) contains detailed accounts of relationships between Atlantic City government officials and the casino industry.

* Dozens of Atlantic City employees, including police officers, housing commissioners, budget personnel and deputy mayors, have flocked to the employ of the casinos. The Director of the Casino Hotel Association was once the Director of Atlantic City's Housing and Urban Renewal Authority, in which position of public trust he helped to negotiate the sale of two urban renewal tracts to the casinos.[1] The Director of the Planning Board went to work for a casino development corporation after having suggested to the company how it could circumvent requirements of the city's master plan prohibiting use of a site for casino development.[2]

The situation is not much different at the state level, leading some state officials to charge that the casino industry is systematically trying to create a pattern of influence in government:[3]

* Seven former state legislators with connections and influence at the highest levels of government have been hired or retained by the casino industry for a variety of jobs.[4] These include, for example, a former Democratic leader in the State Senate, who was made president of the Golden Nugget in March 1980; a former Atlantic County Senator, sponsor of the casino control legislation, who was hired as

a part-time physician by Resorts International; and a former Atlantic City Assemblyman whose firm represented a casino developer when he voted for the casino gambling bill in 1977.

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[1] New York Times, June 15, 1980.

[2] New York Times, June 16, 1980.

[3] The Chairman of New Jersey's Joint Legislative Committee on Ethical Standards has commented: "Is this whole industry going to continue wheeling and dealing in politics? . . . It is a disturbing pattern and not what the public agreed to when it voted to try casino gambling." New York Times, November 30, 1980.

[4] New York Times, November 30, 1980.

* Seven legislators or their relatives held stock in casinos or companies that hoped to build casinos in Atlantic City.

* The casinos have employed at least 16 former high-level state officials. These include such important officials as a former budget director, director of the division of criminal justice, chairman of the state racing commission, a former attorney general and deputy attorney general, counsels and assistant counsel to the governor, executive secretary to the governor, and officials of the department of transportatio state election law enforcement commission, division of youth and family services, and the state's treasury department.

* Friends and family of important New Jersey federal and state officials have not been neglected by the casino industry. Of two lawyers hired by Resorts International to handle its lobbying, one was related to the Assemblyman who introduced the casino gambling bill and the other to the State Senator who introduced the bill in the Senate. The wife of a United States Senator served as a consultant to a company seeking a casino permit and was a former member of its board of directors. Three friends of Governor Byrne were appointed as $15,000 per year trustees of Bally's Park Place Casino.

* The casino industry's influence further extends into New Jersey's prestigious law firms with connections in state government. A high-level New Jersey law enforcement official reports that the top ten law firms in the state are now in the service of the casino industry.

The casino industry's seductive nature and efforts to buy influence are further demonstrated by the fact that influential state and local officials throughout New Jersey have been offered special privileges and courtesies by the casinos in Atlantic City. This led former Attorney General Degnan to label the industry as "inherently dangerous" because of its propensity to curry official favor.[1]

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[1] New York Times, March 4, 1980.

Enormous pressures have been placed on government officials to subvert and erode casino control mechanisms, and the State is plagued by rumors of payoffs to people in high places to secure preferential treatment in the areas of licensing and security. In recent months, the casino industry has mobilized an intensive lobbying effort focused on measures to ease state regulation of casinos and to defeat a bill that would increase the state's share of casino revenues.[1]

With 1981 being a gubernatorial election year in New Jersey, the casino gambling industry has begun to focus its attention on the campaign to select Governor Byrne's successor, and it can be anticipated that pro-casino interests will find ways to help the campaigns of candidates for office at all levels. Three gubernatorial hopefuls, in addressing representatives of the casino industry on March 18, 1981, have already indicated their willingness to consider easing some of the regulations directly affecting casino operations. A spokesman for Governor Byrne responded as follows on the same day:

> "The governor is concerned about the pressure being exerted on the candidates for governor and the Legislature by the casino industry . . . the governor has become alarmed that political candidates will succumb to the casino industry's complaints that it is being overregulated and will drastically weaken the state's ability to control those casino operations" (emphasis supplied)[2]

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[1] One measure to reduce the number of required security personnel in each casino would further open the door to unsavory elements, according to the Executive Director of New Jersey's Commission of Investigations. Another bill being fought by the industry would increase the state's share of casino revenues from 8% to 10%. The industry's efforts have already resulted in the Casino Control Commission easing regulations in several areas, including the elimination of a requirement that about one-half of a casino's tables permit bets as low as $2 or $5. See also, New York Times, April 19, 1981.

[2] Trenton Times, March 19, 1981.

Nevada's experience is also instructive. The state's political leaders are reported to be "outraged" over the efforts of the Federal Justice Department's organized crime task force over the past year to identify organized crime links to the casinos. One U.S. Senator from Nevada called for a congressional review of the strike-force operations.[1]

Can New York State afford this kind of threat to the integrity of its governmental institutions? I do not think so. Public confidence in government is a precious, rare commodity. That trust has been badly shaken in New Jersey with the advent of casino gambling. In my view, a course of action for New York that threatens to undermine and compromise government institutions and officials in a manner similar to New Jersey should be rejected -- no matter what the cost in lost revenues or economic development.

I agree with Assembly Speaker Stanley Fink, and others, that some form of public ownership and operation of gambling casinos would seem to have a better chance of controlling crime within casinos than private ownership. But the problems discussed in preceding sections would remain. In addition, the practical and legal problems of public ownership and management appear to me to be insurmountable. At the very least, operation of casinos by the state would drastically alter a prime justification for large scale casino gambling --its economic development potential. The huge sums of risk capital required for initial investment, legal problems related to the public extension of credit, the disparity between casino personnel needs and established civil service requirements, and the inability of government to afford the high-priced management talent necessary to run hugh casino enterprises, are but a few of the other problems presented by State control. There is also a "credibility" problem. A few instances of corruption in state-run casinos would quickly poison the entire program and destroy public trust in government.

For the foregoing reasons, I respectfully submit that New York State and legalized casino gambling are incompatible and that action on the various casino gambling proposals should be permanently suspended.

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[1] U.S. News and World Report, March 8, 1981, p. 67.

DATED: May 20, 1981